

**FINAL REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

**The Incentives and Obstacles  
Facing Businesses When Making  
Location Decisions in Virginia**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 75**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1993**

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The Honorable Alan A. Diamonstein, *Chairman*  
The Honorable Alson H. Smith, Jr., *Vice Chairman*  
The Honorable Leslie L. Byrne\*  
The Honorable Watkins M. Abbitt, Jr.  
The Honorable Joseph V. Gartlan, Jr.  
The Honorable Elliot S. Schewel  
The Honorable Benjamin J. Lambert III  
Ms. Toy Lacy Cobbe  
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## Table of Contents

|   | <b>Page</b> |
|---|-------------|
| <b>I. INTRODUCTION</b>  | <b>1</b>    |
| <b>II. 1992 ACTIVITIES AND FINDINGS</b>   | <b>2</b>    |
| <b>III. CONCLUSION</b>  | <b>4</b>    |
| <b>IV. DISSENT BY SENATOR JOSEPH V. GARTLAN, JR.</b>  | <b>5</b>    |
| <b>V. APPENDICES</b>  | <b>6</b>    |
| A. House Joint Resolution No. 41 (1992).  |             |
| B. The Department of Environmental Quality,<br>Report of the Office of the Secretary of<br>Natural Resources. |             |
| C. Written Testimony of the Virginia Manufacturers<br>Association.  |             |

**Report of the Joint Subcommittee Studying  
The Incentives and Obstacles Facing Businesses  
When Making Location Decisions In Virginia**

To  
The Governor and the General Assembly of Virginia

Richmond, Virginia  
April, 1993

TO: The Honorable L. Douglas Wilder, Governor of Virginia  
and  
The General Assembly of Virginia

## **I. Introduction**

House Joint Resolution No. 448 (Appendix A), agreed to during the 1991 Session of the General Assembly, established a joint subcommittee to study the incentives and obstacles facing businesses when making location decisions in Virginia. The resolve clause in the resolution directed the subcommittee to:

- ◆ Evaluate the incentives offered by the Commonwealth to encourage businesses to locate in the Commonwealth, compare these incentives to those offered by other states, and recommend legislation necessary to ensure that the Commonwealth is competitive with the other states;
- ◆ Review the various permitting processes involved in establishing businesses in Virginia to identify ways in which those processes may be streamlined and expedited and, to the extent possible, recommend appropriate legislation to expedite the permitting process; and
- ◆ Review laws related to business operations as they affect the expansion of existing facilities.

The subcommittee consisted of ten members as follows: four members of the House of Delegates appointed by the Speaker; three members of the Senate appointed by the Senate Committee on Privileges and Elections; two citizens of the Commonwealth appointed by the Governor; and a designee of the Attorney General.

The subcommittee completed its work as it relates to Virginia's economic development activities and issued an interim report, House Document No. 54, 1992, which chronicles the 1991 activities and findings of the subcommittee.



House Joint Resolution No. 41, agreed to by the 1992 Session of the General Assembly, continued the subcommittee created pursuant to HJR No. 448 to (i) examine and evaluate the effectiveness of changes proposed by the Secretary of Natural Resources to expedite the permitting process and (ii) consider, further, related issues necessary to develop specific recommendations to streamline the environmental permitting process and enhance Virginia's overall economic development efforts.

## II. 1992 Activities and Findings

Environmental permitting as a component of economic development remains an issue. Industry complaints about the time required for an environmental permit to be issued focused attention on the permitting process and resulted in (i) the creation of the Permit Assistance Group (PAG), which established within state government a coordinated and consolidated service to assist nongovernmental applicants in the permitting process and (ii) the creation of the Department of Environmental Quality (DEQ). Despite the creation of PAG and DEQ,\* the environmental permitting process continues to be the center of attention.

The subcommittee met in December, 1992 to consider its charge under HJR 41. At that meeting, Elizabeth Haskell, Secretary of Natural Resources, briefed the subcommittee on the work in her Secretariat related to environmental permitting and the creation of DEQ. The Secretary indicated that implementation planning for DEQ began in March, 1992, with the creation of a citizen advisory group, a permit advisory group as well as agency head workgroups and various task forces focused on the crystallizing the goals and responsibilities of DEQ. In addition, six public meetings were conducted by the secretariat to receive further public comment on the implementation of DEQ. As a result of this work, six goals for DEQ were articulated.

1. Pollution prevention;
2. Reduction in the levels of pollutants in Virginia's environment;
3. Issuance of timely, consistent, and quality permits;
4. Improvement of public understanding of, and participation in, environmental issues and decision making;

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\*Start up for DEQ is currently scheduled for April 1, 1993.

5. Performance of comprehensive natural resource planning, policy analysis, and coordination between the various media (i.e., air, water, and waste) in DEQ; and
6. Ensure the effective and efficient development and use of agency resources.

Also included in the implementation planning for DEQ is the consolidation of existing computer systems, and the creation of a permit assistance unit in each of the Commonwealth's seven regional offices to act as a point source for permitting information for business. In addition, regional offices will be given more authority in permit review decisions. The Secretary stressed that one-stop permitting through the use of simplified application forms and integration among the various media; technical assistance in the form of seminars and manuals developed by DEQ in addition to plant site visits; and expanded policy analysis are to be expected from DEQ and are areas in which DEQ should be held accountable.

Other areas of change identified by Ms. Haskell which will impact DEQ include revisions to the Administrative Process Act (APA). The proposed amendments to the APA will address concerns that there is no continuity among agencies in the development of public participation guidelines and that the economic impact of environmental regulations are unknown. A copy of the report issued from the Office of the Secretary of Natural Resources on DEQ is attached as Appendix B.

The subcommittee considered the implementation of DEQ. Testimony submitted to the subcommittee by industry representatives indicated concern about the implementation of DEQ. Their concern focused primarily on four areas:

1. Priority of the stated goals of DEQ;
2. An implementation plan has yet to be developed for DEQ;
3. Permit fees, additional personnel, and other initiatives are possible under the current organizational structure; and
4. The prudence of binding a new administration with an initiative of the previous administration.

A copy of the written testimony submitted by the Virginia Manufacturers Association is attached as Appendix C.

Striving to find an equitable solution, the subcommittee considered, and subsequently rejected by a vote of 5-2, the following:

1. Urging the current administration to implement some of the ideas in the DEQ report as soon as possible. Specifically, better coordination and more efficiency in the permitting process, and more regional authority are initiatives which can be implemented under existing organizational structure.
2. Delay the implementation of DEQ for two years -- from April 1, 1993 to April 1, 1995 to evaluate the effectiveness of the implementation of permit fees, and additional personnel on the permitting process. This approach would also allow the new administration approximately one year to develop an implementation plan for DEQ.

### **III. Conclusion**

The members of the subcommittee received materials and heard testimony from a great number of groups and individuals and the process educated all. The subcommittee would like to express its gratitude to all participants for their work and dedication.

Respectfully submitted,

The Honorable Alan A. Diamonstein, Chairman

The Honorable Alson H. Smith, Jr., Vice Chairman

The Honorable Watkins M. Abbitt, Jr.

The Honorable Joseph V. Gartlan, Jr.\*

The Honorable Elliot S. Schewel

The Honorable Benjamin J. Lambert III

Ms. Toy Lacy Cobbe

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Deborah Love-Bryant, Attorney General's Office

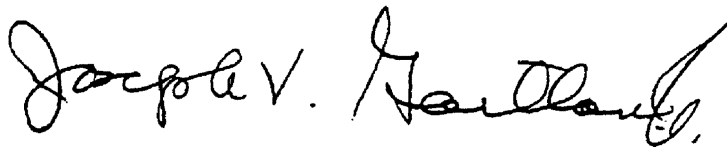
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*\*Dissent from Recommendations*

**IV. DISSENT OF  
SENATOR JOSEPH V. GARTLAN, JR.**

I dissent from the conclusions and recommendations of the report. Regretfully, no **affirmative** conclusions were reached and no analysis of the issues which the Joint Subcommittee was charged to consider pursuant to HJR 41 (1992) was ever made.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joseph V. Gartlan, Jr." with a long, sweeping flourish at the end.

Joseph V. Gartlan, Jr.

## **V. Appendices**

- A. House Joint Resolution No. 41 (1992).
- B. The Department of Environmental Quality, Report of the Office of the Secretary of Natural Resources.
- C. Written Testimony of the Virginia Manufacturers Association.

**APPENDIX A**

**House Joint Resolution No. 41 (1992)**

## HOUSE JOINT RESOLUTION NO. 41

*Requesting the continuation of the Joint Subcommittee Studying the Incentives and Obstacles Facing Businesses When Making Location Decisions in Virginia.*

Agreed to by the House of Delegates, February 9, 1992  
Agreed to by the Senate, March 3, 1992

WHEREAS, pursuant to House Joint Resolution No. 448 of the 1991 Session of the General Assembly, a joint subcommittee was established to study the incentives and obstacles facing businesses when making location decisions in Virginia; and

WHEREAS, the joint subcommittee was charged to:

1. Evaluate the incentives offered by the Commonwealth to encourage businesses to locate in the Commonwealth and to compare those incentives to those offered by other states and recommend legislation necessary to ensure that the Commonwealth is competitive with the other states;
2. Review the various permitting processes involved in establishing businesses in Virginia to identify ways in which those processes may be streamlined and expedited and, to the extent possible, recommend appropriate legislation to expedite the permitting process;
3. Review laws related to business operations as they affect the expansion of existing facilities; and

WHEREAS, although the joint subcommittee developed specific recommendations addressing business incentives, it is the consensus of the members that further study and consideration of the environmental permitting process and other issues are necessary to develop additional specific recommendations to enhance Virginia's overall economic development efforts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying the Incentives and Obstacles Facing Businesses When Making Location Decisions in Virginia be continued. The membership of the joint subcommittee shall continue as established by House Joint Resolution No. 448 of the 1991 Session of the General Assembly. Vacancies shall be filled in the same manner as the original appointment.

The joint subcommittee shall complete its work and submit its recommendations to the Governor and the 1993 Session of the General Assembly in accordance with the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The indirect costs of this study are estimated to be \$10,650; the direct costs of this study shall not exceed \$7,200.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

**APPENDIX B**

**The Department of Environmental Quality:  
Report of the  
Office of the Secretary of Natural Resources**



**THE  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

**Environmental Management  
for the Twenty-First Century**

**Commonwealth of Virginia**

**Office of the Secretary of  
Natural Resources**

**November 1, 1992**

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**THE DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**ENVIRONMENTAL MANAGEMENT FOR THE TWENTY-FIRST CENTURY**

**EXECUTIVE SUMMARY**

The General Assembly created the Department of Environmental Quality in 1992 to provide the public with streamlined and coordinated environmental services. The department will begin operations April 1, 1993, after one of the most rigorous and open implementation planning processes in state governmental history. This report summarizes that process and the operational framework and procedures for DEQ that resulted.

Under the auspices of the Secretary of Natural Resources, implementation planning began in March and included the general public through six public meetings and a broad-based Citizens' Advisory Group, staff and directors of the four affected agencies and seven other state agencies all working through twelve task forces and an agency directors steering committee. These participants were instrumental in carrying out the implementation process and the design of the new department. Both the public and agency employees have met the Secretary's challenge of conducting a comprehensive and thorough analysis of performance expectations, structure and operations for the new department. The extensive participation by future DEQ employees and managers has helped these state employees better understand the needs of the public they serve. DEQ will result in not only organizational changes but also changed attitudes. The climate at DEQ will be an atmosphere of enhanced technical assistance, public service and pollution prevention, rather than the traditional approach of total regulatory control. This staff involvement in decision making will help DEQ's goals become reality.

While DEQ will have the same statutory authorities as its four component agencies which are the Department of Air Pollution Control, the Department of Waste Management, the State Water Control Board and the Council on the Environment, and the three citizen regulatory boards will continue intact, it is expected that DEQ will have a strengthened basis for its decisions. It will pursue a pollution prevention strategy throughout and conduct its business in a more open and helpful style. DEQ's new capabilities will include:

- one stop permitting through an office of permit assistance that will also provide technical assistance to businesses and local governments on the regulatory process

- 
- clear performance expectations and timetables for permitting
  - expanded policy analysis that will allow more comprehensive evaluation of economic consequences and environmental impacts of agency decisions
  - additional opportunities for public participation in agency decision-making, including the creation of a permanent Citizens' Advisory Group that will report to the agency director
  - enhanced public communication and environmental education capabilities
  - seven consolidated regional offices that have been delegated more powers to make decisions
  - development of pollution prevention as an overriding agency strategy, and regulatory programs that limit the transfer of pollution from one medium of the environment to another.

These enhanced capabilities will be possible with no increase in budget or staff. Savings will be realized through the operation of economies of scale and elimination of duplicate positions. These savings will be reassigned to new program directions within the department. The structure of DEQ will allow more efficient allocation of staff and dollars so that new missions can be accomplished at no added cost. Procedural changes and reorganizations will be phased in over a period of time, so as not to slow down vital environmental activities.

This new department is truly a win-win proposal for the Commonwealth of Virginia. It can achieve better results for the environment as well as streamline the permitting process for the regulated community.

The creation of DEQ has given state government a dramatic opportunity to deliver streamlined and more responsive environmental services to the public, not through increased regulation and spending, but through innovative planning, public involvement and redirected resources. The expected performance of DEQ will be enhanced environmental protection and a strengthened economy, two compatible and critical state goals. DEQ promises to be an exciting example of improved efficiency and effectiveness in state government.

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**DEQ Summary Information**

|                                |               |
|--------------------------------|---------------|
| Number of Personnel            | 883           |
| Budget for FY 93               | \$106,580,314 |
| Number of DEQ Regional Offices | 7             |

**Key Laws Administered:**

State Air Pollution Control Law and the federal Clean Air Act

State Water Control Law and the federal Clean Water Act

Virginia Waste Management Act and the federal Superfund  
and Resource Conservation and Recovery Acts

Groundwater Act

Environmental Quality Act

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## **BENEFITS OF CONSOLIDATING ENVIRONMENTAL AGENCIES**

**Example 1:** A major manufacturing company intends to open a large, new industrial processing facility in Stafford that will affect air and water quality and generate solid waste. The facility would include a large boiler, a wastewater treatment plant and a solid waste disposal facility on the site.

| <b>Before Consolidation</b>                            | <b>Consolidated DEQ</b>   |
|--|---|
| 1. Contact Executive Director DAPC<br>Richmond         |   |
| 2. Contact Executive Director DWM<br>Richmond          | 1. Contact Director of DEQ<br>Richmond                                  |
| 3. Contact Executive Director SWCB<br>Richmond         |   |
| 4. Contact Regional Director DAPC<br>Fredericksburg    | 2. Contact DEQ regional<br>permit assistance office<br>Woodbridge       |
| 5. Contact Regional Director SWCB<br>Woodbridge        |   |
| 6. Application to DAPC permit writer<br>Fredericksburg |   |
| 7. Application to DWM permit writer<br>Richmond        | 3. Applications to DEQ<br>permit assistance office<br>Woodbridge        |
| 8. Application to SWCB permit writer<br>Woodbridge     |   |
| 9. Meet with DAPC permit writer<br>Fredericksburg      |   |
| 10. Meet with DWM permit writer<br>Richmond            | 4. Meet with facilitator<br>from permit assistance office<br>Woodbridge |
| 11. Meet with SWCB permit writer<br>Woodbridge         |   |

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**Example 2:** A seven acre tire dump, filled with more than 1 million used tires, has caught on fire. The dump is located just outside the City of Lynchburg, very close to the James River. The local response authority has contacted the Department of Emergency Services (DES).

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| <b>Before Consolidation</b>  | <b>Consolidated DEQ</b>   |
|--|---|
| <p>1. DES contacts emergency response personnel for <b>DAPC</b><br/><b>Richmond</b></p> <p>2. DES contacts emergency response personnel for <b>DAPC</b><br/><b>Lynchburg</b></p> <p>3. DES contacts emergency response personnel for <b>SWCB</b><br/><b>Richmond</b></p> <p>4. DES contacts emergency response personnel for <b>DWM</b><br/><b>Richmond</b></p>  | <p>1. DES contacts emergency response personnel for <b>DEQ</b><br/><b>Richmond</b></p>      |
| <p>5. Emergency response personnel go to Lynchburg from <b>DAPC</b><br/><b>Richmond</b></p> <p>6. Emergency response personnel go to Lynchburg from <b>DAPC</b><br/><b>Lynchburg</b></p> <p>7. Emergency response personnel go to Lynchburg from <b>SWCB</b><br/><b>Richmond</b></p> <p>8. Emergency response personnel go to Lynchburg from <b>SWCB</b><br/><b>Roanoke</b></p> <p>9. Emergency response personnel go to Lynchburg from <b>DWM</b><br/><b>Richmond</b></p> | <p>2. Emergency response personnel go to Lynchburg from <b>DEQ</b><br/><b>Lynchburg</b></p> |
| <p>10. Use of Emergency Response Fund authorized by <b>DAPC</b><br/><b>Richmond</b></p> <p>11. Use of Emergency Response Fund authorized by <b>SWCB</b><br/><b>Richmond</b></p> <p>12. Use of Emergency Response Fund authorized by <b>DWM</b><br/><b>Richmond</b></p>   | <p>3. Use of Emergency Response Fund authorized by <b>DEQ</b><br/><b>Richmond</b></p>       |

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**EXAMPLE 3:** An important issue in environmental management is the development of regulatory policy for toxic pollutants.

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**Before Consolidation**

1. DAPC develops air-based toxic pollutant regulations for presentation to the State Water Control Board.
2. DWM develops land-based toxic pollutant regulations for presentation to the Virginia Waste Management Board.
3. SWCB develops water-based toxic pollutant regulations for presentation to the State Water Control Board
4. DAPC issues permits implementing air-based regulations.
5. DWM issues permits implementing land-based regulations.
6. SWCB issues permits implementing water-based regulations.

**Consolidation DEQ**

1. DEQ Policy office works with Operations Staff to develop and implement a three part toxic pollutant control policy. (a) Regulations that consider air, water, waste issues are developed for presentation to citizen boards. (b) Regional staff develop permits which ensure that cross-media toxic issues are addressed. (c) Staff from Pollution Prevention and Permit Assistance units visit facilities to evaluate integrated, cross-media impacts and provide plant-specific pollution prevention assistance.
2. DEQ continues to implement policy. Permit assistance unit coordinates issuance of permits to ensure that cross-media toxic issues are addressed. Pollution prevention staff continues to assist facilities in developing pollution prevention strategies.

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### Agency Characteristics Before and After DEQ

#### Four Separate Agencies Before DEQ

#### DEQ

Permitting by four agencies

One stop permitting

Focus on regulating only

Permit and technical assistance

Short term programming

Long term planning with short term objectives

Narrow, parochial view

Participative, open style

Internal competition

Cooperation, common mission

Ambiguous requirements

Clear, systematic approach

Headquarters control

Regional empowerment, staff authority

Scattered regional locations

Integrated regional office locations and boundaries

Working as individuals

Working in cross-media teams

Individualistic problem solving

Participative, group problem solving

Production oriented

Service oriented



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## I. CREATING THE DEPARTMENT OF ENVIRONMENTAL QUALITY

### **Environmental Quality Through Better Management, Greater Efficiency and Public Service**

On April 1, 1993, the Department of Environmental Quality (DEQ) will assume its responsibilities as the consolidated, coordinated environmental regulatory and planning agency of the Commonwealth of Virginia. The new department, which was authorized by the 1992 General Assembly, combines the activities of four environmental agencies: the Department of Waste Management, the Department of Air Pollution Control, the State Water Control Board and the Council on the Environment.

Virginians will benefit from the consolidation through:

- better management of environmental programs via enhanced policy analysis, planning and coordination that will enable DEQ to anticipate environmental and economic impacts of decisions – and will develop the necessary public consensus in setting environmental priorities.
- a new structural framework that will better address the “cross-media,” or inter-related nature of air, water and waste pollution...a framework that will enable the state to work more effectively with industries, treatment plants and consumers to *prevent* pollution rather than just control it.
- more cost-effective operations as a result of shared resources and the economies of scale realized through well-planned and efficient future delivery of agency services.
- better public service through permit coordination, enhanced public communications and environmental education opportunities.
- improved state response to environmental emergencies and priorities.

### **Summary of Legislation Creating DEQ**

The new agency’s purposes and responsibilities are founded on Article XI of Virginia’s constitution, which calls for the conservation of the

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state's natural resources, and are described in Virginia Code §10.1-1182 through 10.1-1192. Please see Appendix #1. The law confers to the Director of the Department of Environmental Quality all of the existing powers and duties currently resting with the directors of the four individual agencies; however, no new powers are granted to the DEQ director by this law.

The statute also continues the powers and duties of the three citizen regulatory boards: the State Air Pollution Control Board, the State Water Control Board and the Virginia Waste Management Board. The interagency and citizen advisory board of the Council on the Environment will be discontinued. In its place, the law requires representatives of the three remaining regulatory boards to meet jointly at least twice a year to hear public comment and evaluate environmental issues of concern.

In addition, the enabling statute clearly enumerates the purposes of the new department. They include coordinated permit review and assistance; enhanced public communications, education and participation opportunities; effective pollution prevention programs; long range environmental program planning and policy analysis; coordinated state review of environmental issues and consolidated administrative systems.

### **Public Involvement Process**

The enabling legislation for the Department of Environmental Quality directs the Secretary of Natural Resources to submit this implementation plan that outlines the organizational framework and operating procedures for the new agency. It is important to note that this report represents the beginning of the strategic planning and implementation process that will be conducted during the creation and organization of DEQ.

Public participation has played a prominent role in helping shape the plan. DEQ planning discussions took place through a number of forums:

- A Citizens' Advisory Group (CAG) – with representatives from business, environmental groups, local governments – was formed to advise the Secretary and agency managers on key issues, goals and objectives for the new agency. (See Appendix # 2 for list of members). A professional facilitator was hired to guide the groups through a series of discussions, which resulted in an agency mission statement, strategic plan and functional organization chart.
- Six public meetings were held in different regions of the state to inform citizens on the new agency's mission, goals and organization

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-- and to hear their comments. Announcements were sent to 5,000 interested citizens and published in local newspapers. About 300 citizens attended the hearings, which were held in July 1992 in Roanoke, Abingdon, Weyer's Cave, Hemdon and Williamsburg. A sixth meeting was held during September in Petersburg. A summary of citizen comments and the announcement are included in Appendix # 3.

· An internal management work group also was convened by the Secretary of Natural Resources. This group was comprised of top agency management from the four affected agencies, personnel from DPB and the Secretary and Deputy Secretary of Natural Resources. Following the work of the Citizens' Advisory Group, this task force participated in seven day-long retreats, again facilitated by an outside consultant, to develop a strategic plan and organization for the new department. This strategic plan and functional chart were then presented for comment to the Citizens' Advisory Group.

### **Citizens' Advisory Group's "Four Primary Areas of Concern"**

After its two initial meetings the Citizens' Advisory Group identified four primary areas for DEQ's attention:

Permitting. The major themes of this discussion were timeliness, coordination and consolidation. The citizens expressed a desire for a clearly defined permitting process, with upfront requirements and timetables; consolidated hearings, forms and procedures; a single, competent contact person; regional office authority for permitting decisions; and early public involvement in the process.

Communication and public participation was another key issue raised. The primary interests expressed were two-way, open communication of environmental issues and policies, including pending regulatory and permitting decisions and continuous education, through outreach programs and other proactive mechanisms. Enhanced environmental education was highlighted as a role for the new agency.

Regional office services. The citizens expressed interest in greater staff efficiency and service at the regional level -- by consolidating separate air, water and waste regional offices into one DEQ office for each region and by delegating greater authority to these regional offices. An important role identified for the regional offices is giving advice, help and information to the public.

Long-range planning and analysis. Finally, the citizens viewed DEQ as an

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opportunity to provide long-range, "big picture" environmental planning, program evaluation and policy analysis. It was suggested that DEQ assume the lead in planning for natural resources programs in the Secretariat of Natural Resources. It was also suggested that pollution prevention is integral to the future of environmental quality and should be a primary concern of the new department. The citizens also expressed the desire that DEQ use outside resources, such as citizen and scientific advisory groups, in its planning and decision-making.

The full report of the CAG is contained in Appendix # 4.

## II. STRATEGIC PLAN FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY

After receiving comments from the Citizens' Advisory Group and the general public, the internal management work group developed a strategic plan outlining the mission statement, operating principles and goals for the Department of Environmental Quality. The strategic plan reflects the best, integrated ideas of the public and internal management in this consensus-building process.

### Mission

We Enhance and Protect The Environment For the People of Virginia

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### OPERATING PRINCIPLES

In accomplishing our mission, we will:

- serve all citizens, including the general public, governments, businesses, and environmental interest groups.
- be helpful, courteous, prompt, open, and available.
- ensure all segments of the public are informed, are listened to, and have the opportunity to affect decisions.
- demonstrate the highest standards of competence, fairness, integrity, and professionalism.
- effectively and efficiently use resources entrusted to us.
- be sensitive to the economic and environmental impacts of our actions.

### GOAL 1.0 PROMOTE POLLUTION PREVENTION

OBJ 1.1 To minimize waste.

- 
- 1.2 To increase re-use, recycling, source reduction and product substitution or reformulation.
  - 1.3 To enhance the technical and financial capability to prevent pollution.
  - 1.4 To implement regulations which prevent pollution.
  - 1.5 To ensure the effective issuance and implementation of permits.
  - 1.6 To monitor continually the quality of air and water resources.
- GOAL 2.0 REDUCE LEVELS OF POLLUTANTS IN VIRGINIA'S ENVIRONMENT
- OBJ 2.1 To enforce Virginia's environmental laws in a timely, consistent and certain manner.
  - 2.2 To restore previously contaminated sites.
  - 2.3 To respond effectively to pollution emergencies.
- GOAL 3.0 ENSURE TIMELINESS, CONSISTENCY, AND QUALITY IN ALL PERMITTING
- OBJ 3.1 To develop clear performance expectations and timetables for the entire permitting process.
  - 3.2 To provide accessible, direct, and simplified service throughout the permitting process.
  - 3.3 To improve and maintain staff knowledge and skills in providing consistent, quality services
  - 3.4 To implement effective permit tracking and quality assurance services.
- GOAL 4.0 IMPROVE PUBLIC UNDERSTANDING OF AND PARTICIPATION IN ENVIRONMENTAL ISSUES AND DECISION MAKING
- OBJ 4.1 To ensure effective and consistent communications with the public, elected officials, and the media.
  - 4.2 To improve the knowledge and understanding of environmental issues by the regulated community and the general public.
  - 4.3 To provide consistent, effective processes for public interaction and participation in agency decision making.
  - 4.4 To enhance public capability to address environmental issues and problems.
  - 4.5 To promote the benefits of citizen environmental stewardship.
  - 4.6 To provide for joint meetings of the Department's Boards to receive citizen comments on and deliberate about

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environmental issues.

**GOAL 5.0 PERFORM COMPREHENSIVE NATURAL RESOURCE PLANNING, POLICY ANALYSIS, AND COORDINATION**

- OBJ 5.1 To evaluate trends and emerging issues affecting Virginia's environment.
- 5.2 To implement strategic planning and management within the agency.
- 5.3 To evaluate the effectiveness of agency services and programs.
- 5.4 To conduct environmental impact reviews in an effective and efficient manner.
- 5.5 To conduct integrated, long-term, natural resource planning with the cooperation of other state agencies.
- 5.6 To coordinate inter-state natural resources activities and programs.

**GOAL 6.0 ENSURE THE EFFECTIVE AND EFFICIENT DEVELOPMENT AND USE OF AGENCY RESOURCES**

- OBJ 6.1 To provide responsible and accountable financial management services.
- 6.2 To recruit, retain and develop competent and professional staff in an equitable manner.
- 6.3 To provide state-of-the-art telecommunication and information resource management services.
- 6.4 To obtain high quality goods and services at reasonable cost, and in a fair, impartial and open manner.
- 6.5 To provide support services which anticipate requirements for program achievement.

**Organizational Structure: Department of Environmental Quality**

As a part of the Department of Environmental Quality strategic plan, the implementation team developed an organizational chart to outline the basic programmatic structure of the new department. Figure 1 on the following page is this organizational chart.

DEQ will be managed by a director, who will be assisted by three deputies. One deputy will oversee policy and budget formulation, as well as the agency's administrative and support services. Another deputy will manage the agency's regulatory and operational programs both in headquarters and the regional offices. The third deputy will direct the

# DEPARTMENT OF ENVIRONMENTAL QUALITY ORGANIZATION CHART

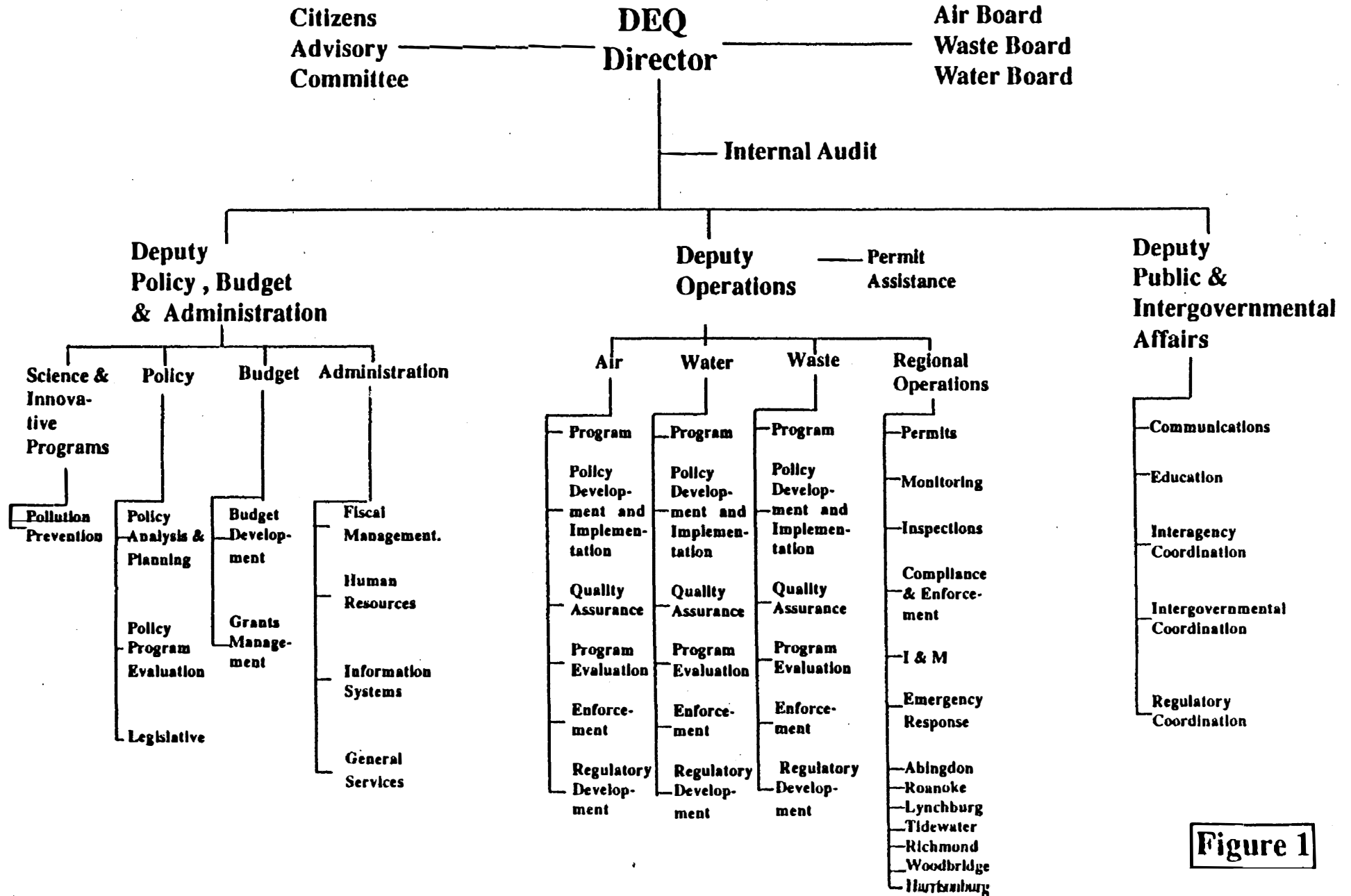


Figure 1

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communications, education and coordination responsibilities.

The Policy, Budget and Administration division will be the guiding force for the agency. This division will be responsible for the long-range planning, policy analysis and program evaluation necessary to identify the environmental needs and concerns that Virginia must address in the future, and to develop programs capable of meeting those needs. This long-range, broad-based planning will be headed up by the Policy unit, supported by a Science and Innovative Programs unit which will offer the technical expertise utilized by the Policy unit. The Policy unit will also oversee program evaluation, conduct appraisals of the department's performance, and provide the legislative liaison for the agency. Science and Innovative Programs unit will also manage the agency's pollution prevention outreach efforts to the regulated community and consumers.

A Budget unit will also be included in this division; its major responsibility will be to develop budget and grant proposals reflective of DEQ policies. The grants management staff will oversee internal grants made to the department, such as the 106 grant from EPA which supports air and water programs in general. Finally, this deputy will oversee the agency's administrative activities, which include fiscal management, human resources, information systems and general services.

The Public and Intergovernmental Affairs Division will be responsible for communicating DEQ goals, policies and programs to the public at large. This division will also administer the agency's environmental education, regulatory coordination and interagency coordination programs such as the Chesapeake Bay Program.

The operational division will include the bulk of the agency's employees and perform the daily work of carrying out the agency's policies and programs. Included primarily in the regional offices will be staff who write permits, staff responsible for monitoring and inspections and the agency's emergency response personnel. Headquarters staff, on the other hand, will generally ensure the quality and consistency of the agency's permitting, monitoring and inspections programs.

The distinction between the work performed by the regional offices and headquarters is implied in the above description. The regional operations staff will do most of the day-to-day work directly affecting the people and communities in which they are located. Headquarters operations staff will be responsible for statewide program implementation, quality control, and consistency among regional offices. Headquarters operations will serve as the agency's point of contact in dealing with EPA and other federal agencies.



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Headquarters will also bear initial responsibility for Virginia's recycling and Superfund programs, although opportunities for regionalization of these programs will be pursued in the early stages of DEQ. For the short term, enforcement for water and waste programs will be exclusively a headquarters responsibility, while air enforcement will take place in both the regions and headquarters. This distinction is simply a continuation of the status quo, which has worked well for each independent agency. The permanent location of the enforcement function is another issue that will be more closely analyzed once DEQ begins operations next April with the expectation that a consistent enforcement approach will be phased in during the early days of DEQ.

One of the most innovative differences between the current organizational structure and the one developed for DEQ is the creation of a Permit Assistance unit, which will report directly to the Deputy Director for Operations. This unit, which is discussed more fully elsewhere in this report, will assist permittees in getting through the various regulatory processes followed in environmental permitting. Staff in this unit will also help members of the general public follow, understand and participate in proposed permit actions. Non-regulatory technical assistance staff, such as the operator training program currently administered by the State Water Control Board, will also be in this unit. Although this unit will report and respond to top DEQ management, most of its employees will be located in the regional offices, where permitting activity will actually take place.

As is shown on the organizational chart, the agency director will be responsible for coordinating among and staffing the three citizen regulatory boards. Additionally, the Citizens Advisory Committee will directly report to and advise the director. While the director of DEQ will hold the ultimate responsibility for agency management, the three deputy directors will serve as important elements of the management team. Following this team approach to management, the deputies will not only manage daily operations of their divisions, but also coordinate the agency's programs across media and organizational lines.

### **III. INVENTORY AND ANALYSIS**

#### **Current Responsibilities of Four Agencies**

Before developing this organizational chart, an inventory of existing agency functions was developed. Key functions of the four agencies were analyzed. These key functions were also summarized for discussions

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by the Citizens' Advisory Group and for presentation at each of the public meetings. Following is a brief summary of each agency's separate responsibilities.

### State Water Control Board

Fiscal Year 1993: \$80,659,928 budget and 446 personnel

- administers the federal Clean Water Act
- enforces Virginia's water quality laws and monitors water quality
- adopts regulations to control and manage surface and ground water impacts from oil spills, underground storage tanks, toxic discharges and other pollutants
- regulates municipal sewage and industrial wastewater treatment plant discharges and surface water and groundwater withdrawals
- responds to water-related environmental emergencies and pollution complaints
- plans for conservation and use of Virginia's water resources

### Department of Air Pollution Control

Fiscal Year 1993: \$11,071,743 budget and 237 personnel

- implements the federal Clean Air Act
- enforces Virginia's air quality laws and monitors air quality
- adopts regulations necessary to control air pollution from motor vehicle and industrial emissions
- regulates industry and business to reduce and prevent air pollution
- responds to air-related environmental emergencies and pollution complaints

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## Department of Waste Management

Fiscal Year 1993: \$12,256,800 budget and 174 personnel

- implements federal waste management laws, most notably the Resource Conservation and Recovery Act and the Superfund hazardous waste cleanup law
- adopts regulations for the disposal of solid waste and the transportation and disposal of hazardous waste
- enforces laws regarding waste disposal, transport, and reporting and landfill siting
- regulates landfills and other waste facilities
- provides training and technical assistance in pollution prevention, waste minimization and recycling

## Council on the Environment

Fiscal Year 1993: \$2,591,843 budget and 26 personnel

- identifies and analyzes environmental issues
- coordinates the multi-state and federal Chesapeake Bay Program and the federal Coastal Resources Management Program
- coordinates environmental impact reviews and provides environmental planning assistance to localities
- coordinates statewide public outreach and education
- manages the EcoMAPS database

## **Organizational Relationships**

The inventory of existing agency functions shows a varied mixture of roles and responsibilities. Organizing these into a coherent new agency structure will require careful analysis of how they relate to each other. Using material from a variety of sources, including some analysis provided by the Department of Planning and Budget, these functions were com-

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pared with functional organizations of other states' environmental agencies. Based on this evaluation, several primary considerations were identified. These included:

- the relation of the citizen regulatory boards to the agency director and staff;
- the relation of the policy, planning and coordination function and the communication and education function to each other and to the Secretary of Natural Resources, the DEQ director and other agency functions and other state agencies;
- options for the organization of the regulatory and other existing agency programs, i.e., whether to organize along media lines such as air, water and waste or whether to organize along functional lines such as permitting, enforcement and inspections;
- the relationship of permit coordination activities to other agency functions; and,
- the relationship of regional office operations to headquarters.

The organizational chart addresses the concerns and issues raised by agency management and citizens. This chart reflects several important points. First, the three citizen regulatory boards relate to top DEQ management, rather than separately to each media program to emphasize their importance, to enhance their visibility and to promote and facilitate their joint policy role. Location at the agency head level will create a single point of contact and allow better coordination and uniformity of activities. For example, cross-regulatory issues such as medical waste can be simultaneously brought to the attention of the citizen boards and the responses can be coordinated to ensure appropriate and comprehensive action. Contrary or redundant decisions will also be avoided when the DEQ director serves as the lead staff person to all the boards. It will also facilitate the semi-annual public meetings to be conducted by representatives from all three boards. The role of these joint board meetings will be discussed in detail in the next section.

The environmental policy and communications functions are shown clearly on the organizational chart. Both of these functions serve a critical support role to top agency management and require similar access to information from other functional groups within the agency. More importantly, citizens repeatedly emphasized the importance of long term environmental planning and public outreach and education as functions vital to the success of DEQ. Separately identifying the planning and policy roles highlights them as integral agency responsibilities.

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Once operating, DEQ will function as lead agency within the Natural Resources Secretariat, under the direction of the Secretary, for broad based environmental planning, above and beyond the arena of air, water and waste. DEQ will coordinate and cooperate with other agencies, both inside and outside the secretariat on relevant environmental issues and will serve as the focal point for the "big picture". This enhanced planning and policy analysis capability at the staff level will provide a valuable complement to the joint board meetings. Together, these two functions will allow the department, the secretary and the public to engage in effective and in-depth environmental planning.

Air, water and waste programs will retain their identity within headquarters but will be thoroughly coordinated in the regions. Envisioned by the organizational chart is an organization aligned neither exclusively by function nor by media, but a hybrid model. To organize simply by media would be the most simple and least disruptive, especially until co-location is accomplished. This approach would not foster the regulatory integration and coordination possibility created by DEQ. To truly achieve complete integration, functional alignment would be the preferred organization. It is also better suited to managing cross-media effects. However, due to differing rules and requirements for permitting, inspections, monitoring and enforcement, complete programmatic integration is not possible for the short-term and may prove to be unworkable even in the long-term. Emergency/pollution response, on the other hand, is a function that can easily adapt to a multimedia approach and will be blended across the media early in the consolidation. Agency specific programs, such as the State Revolving Loan Fund administered by the SWCB, will not be impacted by the consolidation.

### Phased-In Consolidation

It is important to note that decisions made today concerning consolidated program functions will be reviewed in the future. As offices consolidate and staff co-locates, additional opportunities for consolidation will become apparent. There are several program areas, such as enforcement, that will be addressed in the future. Considerable time will be needed to complete a careful analysis of the issues and determine an appropriate course of action.

Phased-in consolidation is very important to the success of DEQ. It has been a key concern that the consolidation effort not slow down or disrupt vital environmental programs, such as permitting. It is also important that any negative impact of this reorganization upon staff, the regulated community and the general public be minimized. An orderly, logical, phased-in approach will ensure a smooth and thoughtful transition.

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Thus, changes essential for effective operations on April 1, 1993 will be in place at that time, but additional changes will occur over the next two to three years to accomplish all goals and new directions of the agency.

### One-Stop Permitting

As detailed in the organizational chart, permit assistance is a visible, high level function of the new department. The role of this unit will be to provide accurate, professional information and assistance to both the regulated community and citizens on the permit process. Although consolidated permitting at the operational level does not appear feasible from an agency perspective nor desirable from a citizen perspective, the notion of permit coordination is a high priority for DEQ. For example, the permit assistance office will assist permit applicants in determining the appropriate permit needed, the status of pending applications and assist in resolving questions or deficiencies. At the same time, this office will be a resource for the general public who have questions on specific pending/issued permits or the permit process in general.

The concept of "one-stop permitting" reflects the notion of consistent regional boundaries and offices and a single contact who functions as a permit coordinator for all appropriate permits. This means that a permittee need only confer with one regional office and communicate with a single person, the permit coordinator, on all applicable permits. It does not mean single, consolidated permits for any and all regulated media. Permits of this nature would be too complex to issue, understand and enforce. Also, federal requirements differ for each program and single, multi-media permits are not feasible based on these dissimilar timetables and criteria. One stop permitting will:

- track permit application status
- coordinate inter-media permit reviews
- identify and resolve conflicts and avoidable delays
- track attainment of permit deadlines by permit writers
- enhance public information on permits in review
- ensure application of appropriate pollution prevention technologies
- work to resolve issues that have caused past logjams in issuing permits

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## Regional Offices

A major consideration, raised by both agency staff and citizen comments, was the relationship between the regional offices and headquarters. In response to consistent concerns raised by the Citizens' Advisory Group and the public during the six public meetings, regional operations will have a prominent role within the agency. The message from the public was very clear - in order to have an efficient and well operating organization, the regional offices must be empowered. Regions should not need to turn to headquarters for all decisions and authorities. Citizens perceive that headquarters has often been responsible for processing and decision making delays. Not only is regional empowerment important for the environmental management programs but it is essential for effective outreach and education.

Additionally, operating programs must be able to utilize regional specific information and resolve regional issues. The regions are better able to understand special, local industries such as the seafood industry of the Northern Neck and the Middle Peninsula and the Southwestern Virginia coal industry. There are also unique environmental characteristics that merit regional consideration, such as the Chesapeake Bay and the Northern Virginia air/transportation issues. The agency will be best able to integrate air, water and waste issues at the regional level. Therefore, the regional offices will play an integral role in the new agency, both from a program and manpower perspective.

## **IV. DISCUSSION OF MAJOR THEMES**

An enormous amount of time and energy, from both the public and agency staffs, was expended to conduct this implementation effort. The issues, concerns and resolutions were developed through a truly participatory process. Not only were dozens of citizens involved, through the Citizens' Advisory Group and the public meetings, but agency staffs, at all levels from executive management down, also contributed to this effort.

To support the overall implementation work, agency staff have organized intra-agency task forces to evaluate consolidation issues and options for specific program areas. These include administration, policy analysis, public participation, enforcement and compliance, information systems and public communications. A special permitting workgroup comprised of staff and citizens was also created to examine permitting issues in greater detail. Hundreds of agency man-hours were devoted to this effort and the resulting issue identification and evaluation have

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proved invaluable to this effort and will be a strong component of future consolidation steps. The participation of DEQ employees in these efforts has helped them mold a better understanding of the public they serve.

### **Key Issues**

What has been presented in sections II and III of this report represents a comprehensive examination of the issues and goals involved in the creation DEQ, as well as a road map that will lead to the development of the most responsive, effective environmental agency possible. In order to more fully illustrate the relationships between the concerns raised and the implementation proposed, the major themes raised during the public participation process have been discussed and analyzed below.

### **Better Permitting Services**

The public has been very clear on the issue of permitting. The process needs to be streamlined, coordinated, made more efficient and less bureaucratic. Staff needs to receive more technical training and become more responsive to the regulated and environmental communities. DEQ needs to help businesses, local governments and citizen groups better understand the permitting process and provide guidance to ensure successful permitting. These concerns are addressed in several places in the strategic plan. The operating principles, which frame the organizational attitude of DEQ, reflect an awareness of the agency's obligation to serve the public in a professional, competent and responsive manner.

DEQ's commitment to better permitting services is evident in Goal 3.0 and its objectives. Objective 3.1 is of particular note in that it promises the development of clear performance expectations and timetables for the entire permitting process. Once these are established, agency procedures, guidelines and personnel standards will reflect the attainment of these expectations and timetables. This will also allow the development of milestone schedules for specific permits. Such schedules will lay out the amount of time needed for each major step in the permitting process. Included would be public input, delineation of departmental responsibilities and coordination of regional offices with headquarters and federal agencies.

The importance of staff education is also evident within Goal 3. Improving and maintaining staff knowledge and skills will assure enhanced understanding and capabilities on the part of permitting staff and consequently, improved permitting services. The consolidation will also create more cross-training opportunities for agency personnel. This



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will in turn increase the likelihood that multimedia problems will be recognized earlier and resolved more quickly, resulting in more timely permits issuances.

The organizational chart, by the inclusion of permit assistance, prominently reflects DEQ's guarantee of better permitting services. This function has not been performed by any of the participating agencies. It is new to DEQ and will play a vital role in improved services. This function will serve as a single point of reference to assist all applicants in completing the permitting process. Staff in this office will coordinate between permittees and technical staff on issues such as application procedures, multi-media projects, timing of permit issuance and resolution of administrative and technical problems.

To more fully explore citizens' concerns about the permitting process, a small workgroup discussed these issues specifically. The Permitting Advisory Group, comprised of agency permitting staff and representatives from the environmental and regulated communities, met twice to examine existing permitting processes and suggest improvements for DEQ services. The full report of this group is contained in Appendix # 5.

Contained in the Permitting Advisory Group's report is a model for permit coordination activities at DEQ. Under this model, the permit coordination function is housed both in the regional offices and in headquarters. Two primary roles are envisioned. The first focuses on the relationship between individual permit applicants and permit coordination staff. In this role, DEQ staff will provide assistance to applicants in determining the status of their applications and permits. This will allow permit writers to concentrate on developing permits.

Permit coordination will also audit the effectiveness of the permit issuance and review processes implemented by permitting staff. Pollution prevention at individual facilities will also be a function of permit coordination in that staff will monitor permit applications to ensure that pollution is not shifted among media.

The second role of permit coordination is closely linked to the technical assistance function. These two functions will be located in the same office. In this mode, permit coordination staff will work with staff from technical assistance and communications to provide extensive permitting assistance to the general public and specific regulated groups. For example, new permit outreach seminars will be presented around the state. The Small Business Assistance Program, mandated by the Clean Air Act amendments will be part of this function, as well as existing engineering assistance programs currently conducted by the State Water Control Board. Instruction manuals, as well as educational information on regula-

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tory requirements will be developed and disseminated. In general, technical assistance is needed primarily by small and medium sized industries and municipalities.

The permit assistance group, along with the communications function, will also explore ways to better inform the public of pending permit actions. Several suggestions were: make the format and contents of public notices more readable; publish announcements in papers with state-wide circulation; publish public service style articles on pending actions, along with the notice; and set up a phone recording that will announce weekly the draft permits subject to public comment during that time period.

It is clear that the permit coordination and communications functions will work closely to improve permitting services for the regulated community and the general public. The goal for this function is to disseminate correct, understandable and helpful information to the public thereby assisting the public upfront and throughout the permitting process.

### Pollution Prevention

The importance of pollution prevention was recognized by both involved agency staff and public commentators. Given the DEQ mission statement, which is to enhance and protect the environment, a strong pollution prevention philosophy and program is a necessity. Promoting pollution prevention is Goal 1 of the new department. Included in the objectives designed to achieve this goal are waste minimization, re-use and recycling, enhanced technical and financial capabilities, effective permits and comprehensive air and water quality monitoring. Once developed and implemented, the programs designed to reach these objectives will emphasize pollution prevention, not treatment, as the technology of the day.

Pollution prevention will be accomplished throughout the department, spearheaded by the office noted on the organizational chart. Communications and education will play an important role in transferring pollution prevention information to the general public and the regulated community. Policy analysis will incorporate notions of pollution prevention in the development of new regulations and programs. Pollution prevention concepts will be integrated through permit issuance and enforcement actions. Technical assistance services will also be knowledgeable in pollution prevention techniques and will be able to assist permittees and small businesses in developing sound pollution prevention programs.

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The concept of pollution prevention, as envisioned for DEQ, has two components. The first represents DEQ's commitment to protecting the environment through improved regulatory performance. This means effective and timely permitting, appropriate and defensible regulations and long-term environmental planning. The second reaches beyond the regulatory function of DEQ and encompasses the voluntary participation of the regulated community. This component reflects a new direction for the agency, achieving through partnership with the private and public sectors, a higher level of environmental protection than that required by regulation. Market-based incentives, expanded outreach and education and technological innovation will be examined as elements in this side of pollution prevention.

### Increased Regional Authority

One of the more common issues raised by the public was the need for greater regional office empowerment. Citizens want to be able to rely on the regional offices for accurate information and reliable decision-making. Many permittees complained that too often, regional staff could not make decisions but instead were required to solicit input and answers from headquarters offices. This often slows down the process, limits the accessibility of the decision-maker and does not allow for consideration of specific regional characteristics. Commentors also noted that regional offices must be conveniently located, accessible to the regulated community.

Recognizing the limitations currently faced by regional offices and the merits of decentralization, regional empowerment is key to the structure of DEQ. In DEQ, regional offices will play a pivotal role in the administration of not only permitting but most other programs. With respect to permitting, for example, regional directors will sign and issue as many permits as possible, considering regulatory and/or statutory restrictions. It is important to note that the role of the citizen regulatory boards in permitting decisions will not be altered by the consolidation. This shift of authority to the regional offices is from headquarters functions, not the citizen boards. The citizen boards for air and water will continue to issue major policy-setting permits.

Although the regions are represented on the chart as a division independent from other functions, in actuality, the regional offices will carry out most of the department's functions. By means of regional empowerment and decentralization of functions and work force, the goals laid out in the strategic plan will be achieved primarily through regional office efforts. In order to accomplish the goal of regional empowerment, it will be necessary to conduct a full evaluation of existing programs to determine those that can and should be fully delegated to the regions.

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This systematic evaluation will be a component of phased-in consolidation. The model will be in favor of regional delegation, unless there is some compelling reason to retain programmatic control in headquarters. If programs are not mature enough for regional authority, a timetable will be developed for the transition. Before start-up, new programs will be evaluated to determine appropriate location, with the regions being the preferred choice.

In order to fully staff the regional offices, positions currently assigned to the Department of Waste Management in Richmond will be allocated to regional offices. Some existing water and air positions will also be shifted to the regions. It is anticipated that the majority of future positions will be filled in the regional offices and that a majority of DEQ staff will be located in the field, not in headquarters.

Increased regional accessibility is also an important goal of DEQ. A map of new, consolidated regional boundaries and the general location of regional offices is contained in Appendix # 6. The seven regions of DEQ were created to allow for more effective consideration of regional issues and characteristics. In setting these regional boundaries, the following factors were considered:

- regional offices should be within a one and a half hour drive for most members of the regulated community and the general public in the particular region
- each regional office should have responsibility for similar numbers of permittees
- transportation routes were examined to ensure convenient access for staff, permittees and the general public
- costs to the state to be incurred through moving offices and employees should be minimized
- impact on employees should be minimized
- concentrating similar interests in the same region, for example the seafood and coal industries, to allow for training of staff in sub-specialty areas
- relating the regional boundaries to large-scale environmental resources
- conforming regional boundaries to Planning District Commission boundaries to the greatest extent possible.

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### Role of the Citizen Boards

As illustrated by the organizational chart, the DEQ director will be the primary point of contact for the citizen regulatory boards. Some support functions may be delegated to other management staff, but the director will remain the lead staff person to the boards. There is nothing in the DEQ enabling legislation, nor in this implementation report, that alters the powers and duties granted to these individual boards. The legislative authorities in place today, such as promulgating regulations and issuing permits, will remain exactly the same after the creation of DEQ.

### Enhanced Public Involvement and Public Education

The need for improved public understanding of and participation in environmental decision making was also identified during the planning process. This need is seen in several areas, including easier and earlier access by the public to permitting issues, increased utilization of citizen advice in agency policy, regulatory and scientific decisions, outreach programs to improve understanding of agency programs and requirements and consistent public participation procedures.

In order to address this need, Goal 4.0 was developed. Through implementation of this goal and its objectives, public communication and education will be expanded in DEQ. Through the implementation of Objective 4.3, the public participation process will be improved. This has already been initiated by the adoption of consistent public participation guidelines and will be continued during the development of permitting procedures. DEQ is committed to providing maximal opportunities for public involvement, both in regional and headquarters decision making. The commitment to this goal is reflected in the DEQ organizational chart. One of the three primary divisions of the new agency will be environmental policy and communication. It is envisioned that the communications and education staff will be of significant size and comprised of communication specialists. This group will be responsible for citizen developing outreach programs and responding to citizen inquiries.

The DEQ communications/education division will provide a coordinated communications approach and will offer an expanded opportunity to raise general public awareness about environmental issues in general and in particular, the impact of the public's behavior on the environment. This broad goal of greater public visibility and understanding will be achieved through the efforts of a centralized communications/education network working in cooperation with operational program areas. Although staff expertise and resources will be shared, there is a distinction to be made between education and communications.

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The education focus will be on the relationship between DEQ and Virginia educators and the Department of Education. Recognizing that educators play a vital role, DEQ will continue to sponsor periodic workshops and meetings on environmental education as well as provide written communications on environmental curricula and topics. DEQ will also continue to work with the private sector in developing environmental education activities for youth and will coordinate educational programs and opportunities among other state agencies.

Communications efforts will center on everyday outreach programs such as media relations, public liaison, public speaking engagements and speech writing, development and production on publications and workshops, special events and promotional activities and internal/employee communications.

Also represented on the organizational chart is an outside citizens advisory committee. Many comments were received applauding the creation of the DEQ Citizens' Advisory Group and suggesting such an advisory group be continued into the operations of the department. Additionally, participating agencies have already established citizen advisory entities, for example the Science and Policy Advisory Committees of the State Water Control Board and the State Advisory Board for Air Pollution. It is envisioned that DEQ will solicit outside advice from citizens in a number of forums.

Specifically, a permanent Citizens' Advisory Group will be appointed that will report to the director of the department. This group will not perform a regulatory function but will instead provide advice and assistance to the agency on the interests of and impacts to the public. Membership of this group will consist of people who deal with regulatory issues on a regular basis and can furnish a citizens' opinion on agency practice and policy.

Additionally, in accordance with both the statute and Objective 4.6 of the strategic plan, joint meetings of board representatives will be conducted to receive citizen input and comment on environmental issues. This will in no way affect the powers and duties of the individual regulatory boards. This joint meeting of board representatives will serve an advisory role to the Director and the Secretary of Natural Resources. The primary functions of the joint meeting will be to receive public comment on and to deliberate about environmental issues of concern to the Commonwealth. To do this, the participating members will:

- Provide oversight, as appropriate, for the development of laws, policies, and programs addressing cross-cutting environ

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mental issues;

- Work cooperatively with the boards or directors of other state agencies in addressing these issues;
- Provide a public forum for citizens to raise and discuss environmental issues of concern to them; and
- Report to the Director of DEQ and the Secretary of Natural Resources.

The representatives at the joint meetings will be the Chairman and the Vice Chairman of each of the Department's three regulatory Boards. On an annual basis, representatives will choose a chairman from among the members.

Joint board meetings will be held at least twice yearly – possibly quarterly – at different locations around the state. Following each meeting, the Chairman will report to the Secretary and the Director on the deliberations and actions of the members and on comments received from the public.

Since a major function of the joint meetings will be to receive public comment on environmental issues, the Department will develop and maintain a mailing list of interested individuals and organizations in order to provide them with information about upcoming joint meetings. All activities of the representative members will conform with the requirements of the Administrative Process Act.

Issues for consideration at the joint meetings will originate from a number of sources including the Director or Secretary, the General Assembly, other departmental boards, other resources agencies, other state agencies or the public. The members may call upon the Director or Secretary, other agency heads, technical experts and citizens to make presentations on and discuss environmental issues of concern to the Commonwealth. Representatives of all state agencies that interact on a regular basis with natural resource issues will be invited to these meetings.

The representatives will have a number of options for acting on issues including recommending an immediate course of action by the Department or another state agency; recommending further study of the situation; referring an issue to one or more other agencies; or deferring an action until some other condition(s) is met.

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## Comprehensive Environmental Planning and Analysis

Many citizens expressed concerns that the broad-based environmental planning and policy analysis currently performed by the Council on the Environment could be diminished through the agency consolidation. Concern was also voiced about continued interaction with environmental programs implemented by other state agencies, such as the Marine Resources Commission and the nonpoint source pollution programs of the Department of Conservation and Recreation.

Goal 5.0 of the strategic plan reflects the DEQ's commitment to long-term, multimedia environmental planning and policy analysis. In response to citizen comments, objective 5.5 was added to make clear the intention that DEQ will perform integrated natural resource planning beyond the scope of the of air, water and waste issues.

As represented on the organizational chart, program coordination, planning and policy analysis are primary functions to be carried out by the new department. These functions will interface with both DEQ top management and the Secretary of Natural Resources in performing wide range environmental planning and analysis. It is envisioned that DEQ will not only accomplish but expand the role formerly played by Council on the Environment in coordinating environmental planning among all involved agencies, both inside and outside the secretariat.

The DEQ enabling legislation recognizes this by charging the Department, among other actions, with:

- undertaking long-range environmental program planning and policy analysis;
- conducting comprehensive evaluations of the Commonwealth's environmental protection programs;
- coordinating state reviews on environmental issues; and
- advising the Governor, the General Assembly, and others on matters relating to environmental quality and the effectiveness of the Commonwealth's actions and programs.

Transferring these roles to the Department of Environmental Quality will make that agency the Commonwealth's focal point for environmental analysis, coordination, and planning. This will occur in a variety of



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ways.

Many environmental problems are cross-cutting and, therefore, affect the interests of several state agencies. These issues may be identified by citizens, the discussions presented at the joint meetings of board representatives, the legislature, the Secretary, or others. The policy and planning entity within the DEQ will become the logical place within the Secretariat for such problems to be studied and recommendations made. The recent development of oil and gas environmental impact review regulations, is an example of such a cross-cutting problem. Other examples include control of toxic pollutants and energy related issues such as cogeneration development.

At other times, new problems, such as pesticide management, arise. The extent of the problem may be unclear or it may not appear to fit well within the authorities and responsibilities of a single agency. The role of the DEQ, as the lead policy coordinating agency for the Secretary, will be to work with other agencies and boards to determine the extent of the problem and the best process and most logical institutional arrangements for managing it. This may not necessarily be within the DEQ, or even within the Secretariat.

The agency will start out with a number of on-going coordinative activities that will lend themselves to continued interaction both with the state's other natural resource agencies, but also with environmental groups and local governments. One such example is policy development and coordination of the interstate Chesapeake Bay Program. This is a highly complex program which will continue to require cooperation among such agencies as the DEQ, the Department of Game and Inland Fisheries, the Marine Resources Commission, and the Department of Conservation and Recreation. The Commonwealth will continue to have a focus for its Chesapeake Bay programs and activities through the DEQ. Staff in the Policy unit will come from staff of the four consolidating agencies that have knowledge and experience in various environmental programs.

### Management Efficiency and Cost Savings

Two separate management issues raised by the public will also be addressed by the consolidation. These are program accountability and staff and budget streamlining. Many commentors expressed a concern that currently, there appears to be a lack of management accountability for cross-media problems. For example, environmental impacts may straddle the regulatory programs of both water and waste; and the perception is that sometimes, neither program will react but instead pass

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off the problems to the other agency. Consolidating management responsibilities means that this will no longer be possible. The director of DEQ will be responsible for appropriately resolving any and all issues involving air, water and waste, no matter which regulatory program they fall under. Permitting will be conducted with this in mind, as will emergency response, technical assistance and environmental planning.

It is also important to note that in creating DEQ, layers of bureaucracy are being stripped away, not added. The Secretary of Natural Resources, along with agency staff, is working with the Department of Personnel and Training to develop appropriate organizational charts and position descriptions for staffing of DEQ. Positions and organization will be reviewed and evaluated to ensure adequate staffing for all agency functions, with the benefits of consolidation kept firmly in mind.

Another positive result of consolidation will be the increased management efficiency of staff and budget resources through the operation of economies of scale. This benefit is seen in Goal 6.0. Consolidated support services will allow for the development of better purchasing, personnel, computer and telecommunication services. For example, at the present time, the participating agencies do not all utilize the same computer programs. This makes data and information transfer difficult and results in impaired and incomplete communications. Other examples of consolidated benefits include library resources and staff training and education resources.

Goal 6.0 reflects the intent of DEQ to improve agency support services and make agency operations more efficient and effective. In concert with this, the functional chart simply illustrates consolidated support services, including human resources, finance and information. Overlapping positions can be shifted to new, understaffed activities such as permit assistance and environmental education. Management and resource efficiencies will also result from the consolidation of regional offices.

Office space and leases will also be reduced. Currently, among the existing agencies, there are leases outstanding on fourteen regional office locations. Once the physical consolidation is complete, there will be only seven regional office locations and leases. See Appendix # 6 for regional map. Existing leases will not be renewed and consolidated space is planned for each regional office location. Based on the terms of existing leases, it is anticipated that by 1994-1995, there will be only seven regional office leases. Consolidated regional offices will also allow for sharing of office resources, such as receptionists, telephone systems and copy and fax machines.

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Some comments were received concerning the specific location of regional offices. Certainly, ease of public access will be a primary factor in determining office location. At this time, however, it is not possible to pinpoint exactly where the offices will be housed. In order to enter leasing agreements, state agencies undergo a request for proposal process. Agencies describe required characteristics, such as warehouse space, inspection bays and laboratory space and give general location information. Once bids are received, a thorough review is conducted to determine the best proposal. Site selection is determined only after review and analysis of the proposals received. The map in Appendix # 5 represents the general location of regional offices.

Minimal impact on staff is expected due to the restructuring of regional boundaries. The State Water Control Board and the Department of Air Pollution Control combined estimate no more than 20 involuntary transfers will be necessary. The Department of Waste Management estimates 25 positions will need to be moved. Many of these may be new or vacant positions and not require actual personnel transfers. Because DWM currently has so few regional personnel and would be staffing regional offices regardless of DEQ, this impact is expected even without the agency consolidation.

DEQ Consolidation Budget and Personnel

Fiscal Year 1993

|                     |               |
|---------------------|---------------|
| Number of Personnel | 883           |
| Budget              | \$106,580,314 |

Increased staffing levels are not the result of consolidation. Rather, additional staff has been authorized by the General Assembly to expedite permit reviews and to perform additional program requirements imposed by changing federal laws, such as the recent Clean Air Act amendments, separate and apart from DEQ. The participating agencies would experience growth in staff size even if they were not consolidated. The consolidation actually minimizes the need for additional staffing in future years. Although this is not a classic downsizing initiative, it will result in future cost avoidance as increasing demands for environmental services can be met with minimized growth in staff size.

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## Other Issues

Several other issues were raised by the public, although not with the same regularity of those discussed above. First, it was suggested that DEQ needs to be sensitive to the economic impacts of its activities. The primary role of the department is environmental protection. In protecting the environment, however, measures can and will be selected to minimize cost to the regulated community, impact to the local tax base and disruption to employment. Recognizing that it is much easier to quantify the costs than the environmental benefits, cost/benefit analysis has not been employed anywhere in this process. The concept, however does flow throughout the development of DEQ in that environmental protection and economic health can and must go hand in hand. The final operating principle of the strategic plan reflects this understanding. That principle states that DEQ will be sensitive to the economic impacts of its actions.

Secondly, a few commentors noted that DEQ did not appear to be addressing land use and growth management issues which can prevent pollution. The mission of DEQ is specific to issues affecting the environment. It is certainly recognized that there is a connection between land use issues and the environment, although these issues are more often within the jurisdiction of local governments. DEQ stands ready to advise agencies involved in growth management and land use planning on environmental issues as well as consider these kinds of issues when there are identified environmental concerns involved.

Finally, it was suggested that DEQ may need to incorporate other agencies or programs to become a truly effective environmental agency. The agencies identified for consolidation are set out by statute. Although there is some interaction between participating agencies and other governmental organizations, it is not practical nor positive to create a single, environmental super-agency. Often there are other factors and relationships that influence an agency's place in the structure of government and those were considered before DEQ was created.

It is important to note that reorganization and consolidation are not the only available mechanisms for intergovernmental interaction. Memoranda of understanding and interagency task forces are two examples of administrative solutions that allow for better communication and working relationships. Additionally, the Office of the Secretary of Natural Resources currently plays an important role in coordinating natural resource agencies and this contact will continue. DEQ intends to utilize these and other formalized working arrangements to ensure the involvement of all appropriate agencies and programs.

## APPENDIX 1

### DEQ Legislation

# 1992 RECONVENED SESSION

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER 887 REENROLLED

*An Act to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-51.9, 5.1-8, 9-6.25:2, 10.1-2501, 10.1-2502, 29.1-103, 62.1-195.1, 62.1-201 and 62.1-218 of the Code of Virginia; to amend the Code of Virginia by adding in Title 10.1 a chapter numbered 11.1, consisting of sections numbered 10.1-1182 through 10.1-1192, and by adding in Title 29.1 a chapter numbered 9, consisting of sections numbered 29.1-900 through 29.1-908; and to repeal § 3.1-18.7 and Chapter 12, consisting of §§ 10.1-1200 through 10.1-1221, of Title 10.1 of the Code of Virginia, creating the Department of Environmental Quality; Virginia Fish Passage Grant and Revolving Loan Fund.*

[H 1053]

Approved APR 15 1992

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-1.7, 2.1-51.9, 5.1-8, 9-6.25:2, 10.1-2501, 10.1-2502, 29.1-103, 62.1-195.1, 62.1-201 and 62.1-218 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 10.1 a chapter numbered 11.1, consisting of sections numbered 10.1-1182 through 10.1-1192, and by adding in Title 29.1 a chapter numbered 9, consisting of sections numbered 29.1-900 through 29.1-908, as follows:

§ 2.1-1.1. Departments generally.—There shall be, in addition to such others as may be established by law, the following administrative divisions of the state government:

- Chesapeake Bay Local Assistance Department.
- Department of Accounts.
- Department for the Aging.
- Department of Agriculture and Consumer Service.
- ~~Department of Air Pollution Control.~~
- Department of Alcoholic Beverage Control.
- Department of Aviation.
- Department of Commerce.
- Department of Conservation and Recreation.
- Department of Corporations.
- Department of Correctional Education.
- Department of Corrections.
- Department of Criminal Justice Services.
- Department for the Deaf and Hard-of-Hearing.
- Department of Economic Development.
- Department of Education.
- Department of Emergency Services.
- Department of Employee Relations Counselors.
- Department of Environmental Quality.*
- Department of Fire Programs.
- Department of Forestry.
- Department of Game and Inland Fisheries.
- Department of General Services.
- Department of Health.
- Department of Health Professions.
- Department of Historic Resources.
- Department of Housing and Community Development.
- Department of Information Technology.
- Department of Labor and Industry.
- Department of Law.
- Department of Medical Assistance Services.
- Department of Mental Health, Mental Retardation and Substance Abuse Services.
- Department of Military Affairs.
- Department of Mines, Minerals and Energy.
- Department of Minority Business Enterprise.
- Department of Motor Vehicles.
- Department of Personnel and Training.
- Department of Planning and Budget.
- Department of Rehabilitative Services.

Department for Rights of Virginians With Disabilities.  
 Department of Social Services.  
 Department of State Police.  
 Department of Taxation.  
 Department of Transportation.  
 Department of the Treasury.  
 Department of Veterans' Affairs.  
 Department for the Visually Handicapped.  
~~Department of Waste Management~~  
 Department of Workers' Compensation.  
 Department of Youth and Family Services.  
 Governor's Employment and Training Department.

§ 2.1-1.3. Entities subject to standard nomenclature.—The following independent administrative entities are subject to the standard nomenclature provisions of § 2.1-1.2:

Chesapeake Bay Local Assistance Department.  
 Department of Accounts.  
 Department for the Aging.  
 Department of Agriculture and Consumer Services.  
~~Department of Air Pollution Control.~~  
~~Department of Alcoholic Beverage Control.~~  
 Department of Aviation.  
 Department of Commerce.  
 Department of Conservation and Recreation.  
 Department of Correctional Education.  
 Department of Corrections.  
 Department of Criminal Justice Services.  
 Department for the Deaf and Hard-of-Hearing.  
 Department of Economic Development.  
 Department of Education.  
 Department of Emergency Services.  
 Department of Employee Relations Counselors.  
*Department of Environmental Quality.*  
 Department of Fire Programs.  
 Department of Forestry.  
 Department of Game and Inland Fisheries.  
 Department of General Services.  
 Department of Health.  
 Department of Health Professions.  
 Department of Historic Resources.  
 Department of Housing and Community Development.  
 Department of Information Technology.  
 Department of Labor and Industry.  
 Department of Medical Assistance Services.  
 Department of Mental Health, Mental Retardation and Substance Abuse Services.  
 Department of Military Affairs.  
 Department of Mines, Minerals and Energy.  
 Department of Minority Business Enterprise.  
 Department of Motor Vehicles.  
 Department of Personnel and Training.  
 Department of Planning and Budget.  
 Department of Rehabilitative Services.  
 Department for Rights of Virginians With Disabilities.  
 Department of Social Services.  
 Department of State Police.  
 Department of Taxation.  
 Department of Transportation.  
 Department of the Treasury.  
 Department of Veterans' Affairs.  
 Department for the Visually Handicapped.  
~~Department of Waste Management~~  
 Department of Youth and Family Services.  
 Governor's Employment and Training Department.

§ 2.1-1.7. State councils.—A. There shall be, in addition to such others as may be

established by law, the following permanent collegial bodies either affiliated with more than one agency or independent of an agency within the executive branch:

Agricultural Council, Virginia  
 Alcohol and Drug Abuse Problems, Governor's Council on  
 Apprenticeship Council  
~~Beach Erosion Council, Virginia~~  
 Child Day Care and Early Childhood Programs, Virginia Council on  
 Child Day-Care Council  
 Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion  
 Commonwealth's Attorneys' Services and Training Council  
 Developmental Disabilities Planning Council, Virginia  
 Equal Employment Opportunity Council, Virginia  
 Handicapped Children, Interagency Coordinating Council on Delivery of Related Services

to

Health Services Cost Review Council, Virginia  
 Housing for the Disabled, Interagency Coordinating Council on  
 Human Rights, Council on  
 Human Services Information and Referral Advisory Council  
 Indians, Council on  
 Job Training Coordinating Council, Governor's  
 Land Evaluation Advisory Council  
 Local Debt, State Council on  
 Long-Term Care Council  
 Military Advisory Council, Virginia  
 Needs of Handicapped Persons, Overall Advisory Council on the  
 Prevention, Virginia Council on Coordinating  
 Public Records Advisory Council, State  
 Rate-setting for Children's Facilities, Interdepartmental Council on  
 Revenue Estimates, Advisory Council on  
 State Health Benefits Advisory Council  
 Status of Women, Council on the

B. Notwithstanding the definition for "council" as provided in § 2.1-1.2, the following entities shall be referred to as councils:

~~Environment, Council on the~~  
 Council on Information Management  
 Higher Education, State Council of  
 World Trade Council, Virginia.

§ 2.1-51.9. Agencies for which Secretary of Natural Resources responsible.—The Secretary shall be responsible to the Governor for the following agencies: Department of Conservation and Recreation, Department of Historic Resources, Marine Resources Commission, ~~State Water Control Board, Department of Air Pollution Control,~~ Department of Game and Inland Fisheries, Chippokes Plantation Farm Foundation, ~~Council on the Environment,~~ Chesapeake Bay Local Assistance Department, Virginia Museum of Natural History and the Department of ~~Waste Management~~ *Environmental Quality* .

The Governor may, by executive order, assign any state executive agency to the Secretary of Natural Resources, or reassign any agency listed above to another secretary.

§ 5.1-8. Permits for operation and expansion of commercial airports or landing fields; judicial review.—It shall be unlawful for any person to operate any airport or landing field for the landing or departure of any civil aircraft engaged in commercial aviation or to extend the runways of any such airport or landing field until a permit therefor shall be issued by the Department. Before issuing such permit the Department shall investigate the location of such airport or landing field with relation to its proximity to any other airport or landing field and provisions made for the safety of aircraft alighting thereon or departing therefrom, and if the proposed airport or landing field shall be so situated as to endanger aircraft using the same or any other airport or landing field in close proximity, or proper provisions have not been made in other respects for the safety of aircraft alighting thereon or departing therefrom, the permit shall not be granted. In addition to the above safety requirements, before the permit is granted, the Department shall consider the reviews and comments of appropriate state agencies, coordinated by the ~~Council on the Environment~~ *Department of Environmental Quality* , and shall cause a public hearing to be held concerning the economic, social and environmental effects of an airport's location or the extension of its runways if the airport is listed in the Virginia Air Transportation System Plan; however, such coordinated review by the ~~Council on the Environment~~



*Department of Environmental Quality* shall not exceed ninety days after the Department has requested review by the ~~Council~~ *Department of Environmental Quality*. The public hearing required by this section shall be conducted by the ~~Council on the Environment~~ *Department of Environmental Quality* in the jurisdiction in which the airport or landing field is located, after publication of notice of the hearing in the newspaper of general circulation in such jurisdiction at least ten days in advance of such hearing. Any party aggrieved by the granting or refusal of any such permit is entitled to judicial review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.).

§ 9-6.25:2. Policy boards, commissions and councils.—There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following policy boards, commissions and councils:

Apprenticeship Council  
 Athletic Board  
 Auctioneers Board  
 Board for Accountancy  
 Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects  
 Board for Barbers  
 Board for Contractors  
 Board for Cosmetology  
 Board for Geology  
 Board for Hearing Aid Specialists  
 Board for Opticians  
 Board for Professional Soil Scientists  
 Board for Rights of Virginians With Disabilities  
 Board for Waterworks and Wastewater Works Operators  
 Board for the Visually Handicapped  
 Board of Agriculture and Consumer Services  
 Board of Audiology and Speech Pathology  
 Board of Commerce  
 Board of Conservation and Recreation  
 Board of Correctional Education  
 Board of Dentistry  
 Board of Directors, State Education Assistance Authority  
 Board of Directors, Virginia Education Loan Authority  
 Board of Examiners in the Department of Mines, Minerals and Energy  
 Board of Funeral Directors and Embalmers  
 Board of Historic Resources  
 Board of Housing and Community Development  
 Board of Medical Assistance Services  
 Board of Medicine  
 Board of Nursing  
 Board of Nursing Home Administrators  
 Board of Optometry  
 Board of Pharmacy  
 Board of Professional Counselors  
 Board of Psychology  
 Board of Rehabilitative Services  
 Board of Social Services  
 Board of Social Work  
 Board of Surface Mining Review  
 Board of Veterinary Medicine  
 Board on Conservation and Development of Public Beaches  
 Chesapeake Bay Local Assistance Board  
 Child Day Care and Early Childhood Programs, Virginia Council on  
 Child Day-Care Council  
 Commission on Local Government  
 Commonwealth Transportation Board  
~~Council on the Environment~~  
 Council on Human Rights  
 Council on Information Management  
 Criminal Justice Services Board  
 Farmers Market Board, Virginia  
 Interdepartmental Council on Rate-setting for Children's Facilities

Library Board, the Virginia State Library and Archives  
 Marine Resources Commission  
 Milk Commission  
 Pesticide Control Board  
 Real Estate Appraiser Board  
 Real Estate Board  
 Reciprocity Board, Department of Motor Vehicles  
 Safety and Health Codes Board  
 Seed Potato Board  
 State Air Pollution Control Board  
 State Board of Corrections  
 State Board of Elections  
 State Board of Health  
 State Board of Youth and Family Services  
 State Health Department, Sewage Handling and Disposal Appeal Review Board  
 State Library Board  
 State Mental Health, Mental Retardation and Substance Abuse Services Board  
 State Water Control Board  
 Substance Abuse Certification Board  
 Treasury Board, The, Department of the Treasury  
 Virginia Aviation Board  
 Virginia Fire Services Board  
 Virginia Health Planning Board  
 Virginia Health Services Cost Review Council  
 Virginia Manufactured Housing Board  
 Virginia Oil and Gas Conservation Board  
 Virginia Parole Board  
 Virginia Public Telecommunications Board  
 Virginia Soil and Water Conservation Board  
 Virginia Voluntary Formulary Board  
 Virginia Waste Management Board  
 Virginia Well Review Board  
 Virginia World Trade Council  
 Waste Management Facility Operators, Board for.

*CHAPTER 11.1.*

*DEPARTMENT OF ENVIRONMENTAL QUALITY.*

*Article 1.*

*General Provisions.*

*§ 10.1-1182. Definitions.—As used in this chapter, unless the context requires a different meaning:*

*“Department” means the Department of Environmental Quality.*

*“Director” means the Director of the Department of Environmental Quality.*

*“Environment” means the natural, scenic and historic attributes of the Commonwealth.*

*§ 10.1-1183. Creation of Department of Environmental Quality; statement of policy.—There is hereby created a Department of Environmental Quality by the consolidation of the programs, functions, staff, facilities, assets and obligations of the following agencies: the State Water Control Board, the Department of Air Pollution Control, the Department of Waste Management, and the Council on the Environment. Wherever in this title and in the Code of Virginia reference is made to the Department of Air Pollution Control, the Department of Waste Management or the Council on the Environment, or any division thereof, it shall mean the Department of Environmental Quality.*

*It shall be the policy of the Department of Environmental Quality to protect the environment of Virginia in order to promote the health and well-being of the Commonwealth's citizens. The purposes of the Department are:*

*1. To assist in the effective implementation of the Constitution of Virginia by carrying out state policies aimed at conserving the Commonwealth's natural resources and protecting its atmosphere, land and waters from pollution.*

*2. To coordinate permit review and issuance procedures to protect all aspects of Virginia's environment.*

*3. To enhance public participation in the regulatory and permitting processes.*

*4. To establish and effectively implement a pollution prevention program to reduce the impact of pollutants on Virginia's natural resources.*

5. To establish procedures for, and undertake, long-range environmental program planning and policy analysis.

6. To conduct comprehensive evaluations of the Commonwealth's environmental protection programs.

7. To provide increased opportunities for public education programs on environmental issues.

8. To develop uniform administrative systems to ensure coherent environmental policies.

9. To coordinate state reviews with federal agencies on environmental issues, such as environmental impact statements.

10. To promote environmental quality through public hearings and expeditious and comprehensive permitting, inspection, monitoring and enforcement programs, and provide effective service delivery to the regulated community.

11. To advise the Governor and General Assembly, and, on request, assist other officers, employees, and public bodies of the Commonwealth, on matters relating to environmental quality and the effectiveness of actions and programs designed to enhance that quality.

§ 10.1-1184. *State Air Pollution Control Board, State Water Control Board, and Virginia Waste Management Board continued.*—The State Air Pollution Control Board, State Water Control Board, and Virginia Waste Management Board are continued and shall promote the environmental quality of the Commonwealth. All policies and regulations adopted or promulgated by the State Air Pollution Control Board, State Water Control Board, Virginia Waste Management Board, and the Council on the Environment and in effect on December 31, 1992, shall continue to be in effect until and unless superseded by new policies or regulations. Representatives of the three Boards shall meet jointly at least twice a year to receive public comment and deliberate about environmental issues of concern to the Commonwealth.

§ 10.1-1185. *Appointment of Director; powers and duties of Director.*—The Department shall be headed by a Director appointed by the Governor to serve at his pleasure for a term coincident with his own. The Director of the Department of Environmental Quality shall, under the direction and control of the Governor, exercise such power and perform such duties as are conferred or imposed upon him by law and shall perform such other duties as may be required of him by the Governor and the following boards: the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board. The Director or his designee shall serve as executive officer of the aforementioned boards.

All powers and duties conferred or imposed upon the Executive Director of the Department of Air Pollution Control, the Executive Director of the State Water Control Board, the Administrator of the Council on the Environment, and the Director of the Department of Waste Management are continued and conferred or imposed upon the Director of the Department of Environmental Quality or his designee. Wherever in this title and in the Code of Virginia reference is made to the head of a division, department or agency hereinafter transferred to this Department, it shall mean the Director of the Department of Environmental Quality.

§ 10.1-1186. *General powers of the Department.*—The Department shall have the following general powers, any of which the Director may delegate as appropriate:

1. Employ such personnel as may be required to carry out the duties of the Department;

2. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, other state agencies and governmental subdivisions of the Commonwealth;

3. Accept grants from the United States government and agencies and instrumentalities thereof and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient, or desirable;

4. Accept and administer services, property, gifts and other funds donated to the Department;

5. Implement all regulations as may be adopted by the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board;

6. Administer, under the direction of the Boards, funds appropriated to it for environmental programs and make contracts related thereto;

7. Initiate and supervise programs designed to educate citizens on ecology, pollution

and its control, technology and its relationship to environmental problems and their solution, population and its relation to environmental problems, and other matters concerning environmental quality;

8. Advise and coordinate the responses of state agencies to notices of proceedings by the State Water Control Board to consider certifications of hydropower projects under 33 U.S.C. § 1341;

9. Advise interested agencies of the Commonwealth of pending proceedings when the Department of Environmental Quality intervenes directly on behalf of the Commonwealth in a Federal Energy Regulatory Commission proceeding or when the Department of Game and Inland Fisheries intervenes in a Federal Energy Regulatory Commission proceeding to coordinate the provision of information and testimony for use in the proceedings; and

10. Perform all acts necessary or convenient to carry out the purposes of this chapter.

§ 10.1-1187. Provision of the Code continued.—The conditions, requirements, provisions, contents, powers and duties of any section, article, or chapter of the Code in effect on March 31, 1993, relating to agencies consolidated in this act shall apply to the Department of Environmental Quality until superseded by new legislation.

#### Article 2.

#### Environmental Impact Reports of State Agencies.

§ 10.1-1188. State agencies to submit environmental impact reports on major projects.—A. All state agencies, boards, authorities and commissions or any branch of the state government shall prepare and submit an environmental impact report to the Department on each major state project.

"Major state project" means the acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility which is hereafter undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning, which costs \$100,000 or more. For the purposes of this chapter, authority shall not include any industrial development authority created pursuant to the provisions of Chapter 33 (§ 15.1-1373 et seq.) of Title 15.1 or Chapter 643, as amended, of the 1964 Acts of Assembly. Nor shall authority include any housing development or redevelopment authority established pursuant to state law. For the purposes of this chapter, branch of state government shall not include any county, city or town of the Commonwealth.

Such environmental impact report shall include, but not be limited to, the following:

1. The environmental impact of the major state project;
2. Any adverse environmental effects which cannot be avoided if the major state project is undertaken;
3. Measures proposed to minimize the impact of the major state project;
4. Any alternatives to the proposed construction; and
5. Any irreversible environmental changes which would be involved in the major state project.

For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

B. For purposes of this chapter, this subsection shall not apply to the review of highway and road construction projects or any part thereof. The Secretaries of Transportation and Natural Resources shall jointly establish procedures for review and comment by state natural and historic resource agencies of highway and road construction projects. Such procedures shall provide for review and comment on appropriate projects and categories of projects to address the environmental impact of the project, any adverse environmental effects which cannot be avoided if the project is undertaken, the measures proposed to minimize the impact of the project, any alternatives to be proposed construction, and any irreversible environmental changes which would be involved in the project.

§ 10.1-1189. Department to review report and make statement to Governor.—Within sixty days of the receipt of the environmental impact report by the Department, the Department shall review and make a statement to the Governor commenting on the environmental impact of each major state facility. The statement of the Department shall be available to the General Assembly and to the general public at the time of submission by the Department to the Governor.

§ 10.1-1190. Approval of Governor required for construction of facility.—The State Comptroller shall not authorize payments of funds from the state treasury for a major state project unless the request is accompanied by the written approval of the Governor after his consideration of the comments of the Department on the environmental impact of

*the facility. This section shall not apply to funds appropriated by the General Assembly prior to June 1, 1973, or any reappropriation of such funds.*

*§ 10.1-1191. Development of procedures, etc., for administration of chapter.—The Department shall, in conjunction with other state agencies, coordinate the development of objectives, criteria and procedures to ensure the orderly preparation and evaluation of environmental impact reports required by this article. These procedures shall provide for submission of impact statements in sufficient time to permit any modification of the major state project which may be necessitated because of environmental impact.*

*§ 10.1-1192. Cooperation of state agencies.—All departments, commissions, boards, authorities, agencies, offices and institutions within any branch of the state government shall cooperate with the Department in carrying out the purposes of this article.*

*§ 10.1-2501. Administration of the Fund.—All moneys received by the State Treasurer for the civil penalties and civil charges referred to in § 10.1-2500, and all reimbursements received under § 10.1-2502 shall be and hereby are credited to the Fund. Interest earned on the Fund shall be credited to the Fund. The Fund shall be established on the books of the State Comptroller and shall be administered by the State Comptroller. ~~The State Comptroller shall maintain a separate accounting of the deposits and disbursements for each of the participating agencies.~~ Any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund.*

*§ 10.1-2502. Disbursements from the Fund.—The disbursement of moneys from the Fund shall be made by the State Comptroller at the written request of the head of one of the following agencies: the Department of Air Pollution Control; the Department of Waste Management; and the State Water Control Board Director of the Department of Environmental Quality. The head of each participating agency Director shall have the authority to access the Fund for up to \$100,000 per occurrence as long as the disbursement does not exceed the balance for the agency account. If an agency head the Director requests a disbursement in excess of \$100,000 or an amount exceeding the remaining agency balance, the disbursement shall require the written approval of the Governor. ~~Each agency~~ The Department of Environmental Quality shall develop guidelines which, after approval by the Governor, determine how the Fund can be used by the agency for the purposes described herein.*

Disbursements from the Fund may be made for the purposes outlined in § 10.1-2500, including, but not limited to, personnel, administrative, and equipment costs and expenses directly incurred by the above-mentioned agencies or by any other agency or political subdivision, acting at the direction of one of the above-mentioned agencies, in and for preventing or alleviating damage, loss, hardship, or suffering caused by environmental pollution incidents.

The appropriate agency shall promptly seek reimbursement from any person causing or contributing to an environmental pollution incident for all sums disbursed from the Fund for the protection, relief and recovery from loss or damage caused by such person. In the event a request for reimbursement is not paid within sixty days of receipt of a written demand, the claim shall be referred to the Attorney General for collection. The agency shall be allowed to recover all legal and court costs and other expenses incident to such actions for collection.

*§ 29.1-103. Powers and duties of the Board.—The Board is responsible for carrying out the purposes and provisions of this title and is authorized to:*

1. Appoint the Director of the Department.
2. Acquire by purchase, lease, exchange, gift or otherwise, lands and waters in the Commonwealth and to establish buildings, structures, dams, lakes and ponds on such lands and waters.
3. Conduct operations for the preservation and propagation of game birds, game animals, fish and other wildlife in order to increase, replenish and restock the lands and inland waters of the Commonwealth.
4. Purchase, lease, or otherwise acquire lands and waters for game and fish refuges, preserves or public shooting and fishing, and establish such lands and waters under appropriate regulations.
5. Acquire by purchase, lease, or otherwise, lands and structures for use as public landings, wharves, or docks; to improve such lands and structures; and to control the use of all such public landings, wharves, or docks by regulation.
6. Acquire and introduce any new species of game birds, game animals or fish on the lands and within the waters of the Commonwealth.
7. Restock, replenish and increase any depleted native species of game birds, game animals, or fish.

8. Have educational matter pertaining to wildlife published and distributed.
9. Hold exhibits throughout the Commonwealth for the purpose of educating school children, agriculturists and other persons in the preservation and propagation of wildlife in the Commonwealth.
10. Control land owned by and under control of the Commonwealth in Back Bay, its tributaries and the North Landing River from the North Carolina line to North Landing Bridge. The Board shall regulate or prohibit by regulation any drilling, dredging or other operation designed to recover or obtain shells, minerals, or other substances in order to prevent practices and operations which would harm the area for fish and wildlife.
11. Exercise powers it may deem advisable for conserving, protecting, replenishing, propagating and increasing the supply of game birds, game animals, fish and other wildlife of the Commonwealth.
12. Adopt resolutions or regulations conferring upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out the purposes of this title.
13. *Administer and manage the Virginia Fish Passage Grant and Revolving Loan Fund pursuant to Chapter 9 (§ 29.1-900 et seq.) of this title.*

**CHAPTER 9.**

**THE VIRGINIA FISH PASSAGE GRANT AND REVOLVING LOAN FUND.**

**§ 29.1-900. Definitions.**—*As used in this chapter, unless the context requires a different meaning:*

*"Department" means the Department of Game and Inland Fisheries.*

*"Fund" means the Virginia Fish Passage Grant and Revolving Loan Fund.*

**§ 29.1-901. Creation and management of Fund.**—*There is hereby created a permanent revolving fund known as the Virginia Fish Passage Grant and Revolving Loan Fund. The Fund shall be comprised of general fund moneys, receipts by the Fund from loans made by it, all income from the investment of moneys held by the Fund, and any other sums designated for deposit to the Fund from any source, public or private. The Fund shall be administered and managed by the Department and shall be used solely for the administration and management of the Fund and the Fish Passage Program. Moneys may be expended (i) as provided for in §§ 29.1-904 and 29.1-905 and (ii) for the costs incurred by the Department in the management of the Fund and operation of the Fish Passage Program.*

**§ 29.1-902. Deposit of money.**—*All money belonging to the Fund shall be recorded on the books of the State Comptroller and deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings and loan associations located in Virginia organized under the laws of the Commonwealth or the United States. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the State Treasurer in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth.*

**§ 29.1-903. Collection of money due to the Fund.**—*The Department, or its designated agent, is empowered to collect amounts due to the Fund under any loan made by it including, where appropriate, taking action as required by § 15.1-227.61 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Department in the name of the Fund in any appropriate circuit court.*

**§ 29.1-904. Grants and loans to local governments.**—*After consultation with the Commissioner of the Virginia Marine Resources Commission, the Department may offer to finance the construction of fishways for any local government which owns a dam or other artificial impediment to the free passage of anadromous fish. The Fund will pay for seventy-five percent of the entire cost of the fishway, and will lend the balance of the cost to the local government. The loan shall be repaid over ten years at no interest or over twenty years at an annual rate of interest which shall be two percentage points below the rate for municipal bonds given in the latest Bond Buyer Twenty Bond Index appearing before the loan is made. Any balance of a loan not paid off as required by this section shall not be paid off as provided in § 29.1-903.*

*All local governments borrowing money from the Fund are authorized to take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical amount all local governments, but may be structured as determined by the Department according to the needs of the contracting local governments and the Fund.*

**§ 29.1-905. Loans to owners other than local governments.**—*After consultation with the Commissioner of the Virginia Marine Resources Commission, the Department may offer to*

*finance the construction of fishways for an owner, other than a local government, who owns a dam or other artificial impediment to the free passage of anadromous fish. The term of such loan shall not exceed twenty years and the interest rate shall be the prime rate for major money center banks, as reported by the latest edition of the Wall Street Journal appearing before the loan is made if the total loan exceeds fifty percent of the estimated project cost; if the total loan does not exceed fifty percent of the estimated cost of the project, the interest rate shall not be less than three percentage points below such prime rate.*

*§ 29.1-906. Security for loans.—Each loan to an owner other than a local government shall be evidenced by appropriate bonds or notes of the borrower payable to the Fund. The Department may require in connection with any loan to an owner other than a local government such documents, instruments, certificates, legal opinions, and other information as it deems necessary or convenient. The Department may require such borrower to provide the Fund a security interest in the borrower's real and personal property and to procure such insurance, guarantees, letters of credit and other forms of security as the Department deems necessary to provide remedies to the Fund in case of loss or default.*

*§ 29.1-907. Grants for loans for dams licensed under or by the Federal Energy Regulatory Commission.—In the event that the Federal Energy Regulatory Commission issues a license for hydropower generation in connection with a dam that is the subject of a loan or grant from the Fund, that loan balance and all accrued interest and the full amount of the grant shall be due and payable one year from the date the federal license is issued or at the expiration of the term of the loan, whichever is earlier.*

*§ 29.1-908. Requirement for fishways.—Notwithstanding any provision of § 29.1-532, including the existence or lack thereof of an exemption pursuant to § 29.1-532, the owner of every dam or other artificial impediment to the migration of anadromous fish in any tributary of the Chesapeake Bay, including that portion of the James River downstream from the City of Lynchburg, shall be responsible to provide appropriate fishways for anadromous fish as soon as reasonably possible after being offered financing from the Fund for the estimated construction cost of the fishways as provided in this article. Any owner of such a dam or other artificial impediment who fails to provide or to maintain fishways providing substantially free passage for anadromous fish may be compelled to provide such fishways by injunction in an action initiated by the Department in an appropriate circuit court. Nothing in this section shall relieve the owner of any dam or other object in a watercourse, which obstructs navigation or the passage of anadromous and other migratory fish, of any obligations or responsibilities under § 29.1-532.*

*§ 62.1-195.1. Chesapeake Bay; drilling for oil or gas prohibited.—A. Notwithstanding any other law, a person shall not drill for oil or gas in or under the waters of the Chesapeake Bay or any of its tributaries. In Tidewater Virginia, as defined in § 10.1-2101, a person shall not drill for oil or gas in or under, whichever is the greater distance, as measured landward of the shoreline:*

*1. Those Chesapeake Bay Preservation Areas, as defined in § 10.1-2101, which a local government designates as "Resource Protection Areas" and incorporates into its local comprehensive plan. "Resource Protection Areas" shall be defined according to the criteria developed by the Chesapeake Bay Local Assistance Board pursuant to § 10.1-2107; or*

*2. Five hundred feet from the shoreline of the waters of the Chesapeake Bay or any of its tributaries.*

*B. The provisions of subsection A of this section which (i) prohibit oil and gas drilling under the waters of the Chesapeake Bay or any of its tributaries and (ii) prohibit the drilling of oil and gas in and under those areas of Tidewater Virginia specified in subdivision 1 or 2, shall expire on July 1, 1992.*

*C. In the event that any person desires to drill for oil or gas in any area of Tidewater Virginia not described in subsection A of this section, he shall submit to the Department of Mines, Minerals and Energy as part of his application for permit to drill an environmental impact assessment. The environmental impact assessment shall include:*

*1. The probabilities and consequences of accidental discharge of oil or gas into the environment during drilling, production, and transportation on:*

- a. Finfish, shellfish, and other marine or freshwater organisms;*
- b. Birds and other wildlife that use the air and water resources;*
- c. Air and water quality; and*
- d. Land and water resources;*

*2. Recommendations for minimizing any adverse economic, fiscal, or environmental impacts; and*

- 3. An examination of the secondary environmental effects of induced economic*



development due to the drilling and production.

D. Upon receipt of an environmental impact assessment, the Department of Mines, Minerals and Energy shall notify the ~~Council on the Environment~~ *Department of Environmental Quality* to coordinate a review of the environmental impact assessment. The ~~Council on the Environment~~ *Department of Environmental Quality* shall:

1. Publish in the Virginia Register of Regulations a notice sufficient to identify the environmental impact assessment and providing an opportunity for public review of and comment on the assessment. The period for public review and comment shall not be less than thirty days from the date of publication;

2. Submit the environmental impact assessment to all appropriate state agencies to review the assessment and submit their comments to the ~~Council on the Environment~~ *Department of Environmental Quality*; and

3. Based upon the review by all appropriate state agencies and the public comments received, submit findings and recommendations to the Department of Mines, Minerals and Energy, within ninety days after notification and receipt of the environmental impact assessment from the Department.

E. The Department of Mines, Minerals and Energy may not grant a permit under § 45.1-361.29 until it has considered the findings and recommendations of the ~~Council on the Environment~~ *Department of Environmental Quality*.

F. The ~~Council on the Environment~~ *Department of Environmental Quality* shall, in conjunction with other state agencies and in conformance with the Administrative Process Act (§ 9-6.14:1 et seq.), develop criteria and procedures to assure the orderly preparation and evaluation of environmental impact assessments required by this section.

§ 62.1-201. Board of Directors.—A. All powers, rights and duties conferred by this chapter or other provisions of law upon the Authority shall be exercised by a board of directors consisting of the State Treasurer, ~~the Executive Director of the State Water Control Board~~, the State Health Commissioner, ~~the Executive Director of the Department of Waste Management~~ *the Director of the Department of Environmental Quality or his designee*, and six members appointed by the Governor, subject to confirmation by the General Assembly. The members of the Board of Directors appointed by the Governor shall serve terms of four years each, except that the original terms of three members appointed by the Governor shall end on June 30, 1985, 1986, and 1987, respectively, as designated by the Governor. Any appointment to fill a vacancy on the Board of Directors shall be made for the unexpired term of the member whose death, resignation or removal created the vacancy. All members of the Board of Directors shall be residents of the Commonwealth. Members may be appointed to successive terms on the Board of Directors. Each member of the Board of Directors shall be reimbursed for his or her reasonable expenses incurred in attendance at meetings or when otherwise engaged in the business of the Authority and shall be compensated at the rate provided in § 2.1-20.3 for each day or portion thereof in which the member is engaged in the business of the Authority.

B. The Governor shall designate one member of the Board of Directors as chairman; he shall be the chief executive officer of the Authority. The Board of Directors may elect one member as vice-chairman; he shall exercise the powers of chairman in the absence of the chairman or as directed by the chairman. The State Treasurer, ~~the Executive Director of the State Water Control Board~~, ~~the Executive Director of the Department of Waste Management~~, *the Director of the Department of Environmental Quality or his designee*, and the State Health Commissioner shall not be eligible to serve as chairman or vice-chairman.

C. Meetings of the Board of Directors shall be held at the call of the chairman or of any four members. ~~Six~~ *Five* members of the Board of Directors shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board of Directors present at any regular or special meeting at which a quorum is present shall be an act of the Board of Directors. No vacancy on the Board of Directors shall impair the right of a majority of a quorum of the members of the Board of Directors to exercise all the rights and perform all the duties of the Authority.

D. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board of Directors or by providing service to the Authority.

§ 62.1-218. Grants to local governments.—The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants or appropriations to local governments. In determining which local governments are to receive grants or appropriations, the ~~State Water Control Board~~ *Department of Environmental*



*Quality* and the Department of Health shall assist the Authority in determining needs for wastewater treatment and water supply facilities.

2. That § 3.1-18.7 and Chapter 12, consisting of §§ 10.1-1200 through 10.1-1221, of Title 10.1 of the Code of Virginia are repealed.

3. That this act shall become effective on April 1, 1993.

4. That the Secretary of Natural Resources shall form an advisory group to assist her in conducting an implementation study to develop the organizational framework and operating procedures for the Department of Environmental Quality. The Secretary shall include as participants in this study representatives of the business community, environmental groups, local governments, and others as appropriate. The Secretary shall complete the implementation study and submit an implementation plan to the Senate Committees on Agriculture, Conservation and Natural Resources and General Laws, and to the House Committee on Conservation and Natural Resources prior to November 1, 1992.

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President of the Senate

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Speaker of the House of Delegates

Approved:

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Governor

## APPENDIX 2

### List of Members - DEQ Citizens' Advisory Group

DEQ ADVISORY COMMITTEE

BUSINESS REPRESENTATIVES:

William R. Small (Bill)  
Westvaco  
206 Franklin Street  
Covington, VA 24426

J. Steven Griles  
United Coal Company  
P. O. Box 1280  
Bristol, VA 24203

Daniel Hinchman  
Air Conditioning Suppliers, Inc.  
3100 West Clay Street  
Richmond, VA 23230

Robert A. Archer  
Blue Ridge Beverage Company  
P. O. Box 700  
Salem, VA 24153

Anthony A. Barone  
O'Sullivan Corporation  
P. O. Box 3510  
Winchester, VA 22601

Edward C. Minor (Ted)  
Associate General Counsel  
Union Camp Corporation  
Franklin, VA 23851

Lawrence C. Tropea, Jr. (Larry)  
Director, Corporate Environmental Control Department  
Reynolds Metals Company  
Box 27003  
Richmond, VA 23261

Martin L. Cardwell  
IBM Corporation  
9500 Godwin Drive  
Manassas, VA 22110

Spottswood Taliaferro  
Route 1, Box 40  
Dunnsville, VA 22454

B. Edward Brammer, President  
Multitrade Group, Inc.  
P. O. Box 717  
Ridgeway, VA 24148

Carol Foster  
Chesapeake Corporation  
P. O. Box 2350  
Richmond, VA 23206

Carol C. Raper  
Vice President, Environmental Affairs  
Virginia Manufacturers Association  
Box 412  
Richmond, VA 23203

Sandra D. Bowen  
Director of Government Affairs  
Virginia Chamber of Commerce  
9 South 5th Street  
Richmond, VA. 23219

J. Carlton Courter, III, President  
Virginia Agribusiness Council  
Box 718  
Richmond, VA 23206

Thomas E. Carroll  
Executive Director  
Virginia Aggregates Associates  
1904 Byrd Avenue  
Richmond, VA 23230

LOCAL GOVERNMENT REPRESENTATIVES

The Hon. Katherine K. Hanley  
Fairfax County Board of Supervisors  
8739 Lee Highway  
Fairfax, VA 22030

Elmer C. Hodge  
Roanoke County Administrator  
P. O. Box 29800  
Roanoke, VA 24018

Robert C. Bobb  
Richmond City Manager  
900 East Broad Street  
Richmond, VA. 23219

Stanley G. Barr, Jr.  
Chairman  
Hampton Roads Sanitation Commission  
P. O. Box 3037  
Norfolk, Virginia 23514

G. Robert Lee  
Fauquier County Administrator  
40 Culpeper Street  
Warrenton, VA 22186

William H. Whitley  
Gloucester County Administrator  
P. O. Box 329  
Gloucester, VA 23061

ENVIRONMENTAL REPRESENTATIVES

Russell A. Hinz, Executive Director  
American Lung Association of Northern Virginia  
9735 Main Street  
Fairfax, VA 22031

Joseph H. Maroon  
Virginia Executive Director  
Chesapeake Bay Foundation  
Heritage Building, Suite 815  
1001 East Main Street  
Richmond, VA 23219

Gerald P. McCarthy  
Virginia Environmental Endowment  
P. O. Box 790  
Richmond, VA. 23206

Patricia A. Jackson (Patti)  
Executive Director  
Lower James River Association  
P. O. Box 110  
Richmond, VA. 23201

Sharon Q. Adams  
929 Windsor Road  
Virginia Beach, VA 23451

Josephine C. deGive (Jolly)  
Piedmont Environmental Council  
Box 460  
Warrenton, VA 22186

Alvin J. Schexnider  
Associate Vice President  
Academic Affairs  
Virginia Commonwealth University  
901 West Franklin Street  
Richmond, Va 23284

Faye Cooper  
Valley Conservation Council  
P. O. Box 2335  
Staunton, Va 24401

Warren Wise  
Friends of the Rappahannock  
108 Wolfe Street  
Fredericksburg, VA 22401

Michael Lipford  
The Nature Conservancy  
1110 Rose Hill Drive  
Charlottesville, VA 22903

Bill Tanger  
Friends of the Rivers of Virginia  
P. O. Box 1750  
Roanoke, VA 24008

## APPENDIX 3

Summary of Comments from DEQ Public Meetings

DEQ Public Meeting Notice

SUMMARY OF COMMENTS FROM DEQ PUBLIC MEETINGS

**Roanoke (7/6/92)**

1. Commended the process, CAG. Supports simplifying the permitting process. Mentioned an old and new landfill in the county.
2. Again mentioned old landfill and the opportunity to reduce pollution via restoration ecology. Stressed importance of public involvement and need for government to communicate sense it is listening. Encouraged aggressive enforcement. Suggested: 1) provide information to schools for teachers to use, 2) employ public involvement specialists trained to listen to the public. Applauded cross-media environmental planning and policy analysis. Suggested technical and financial assistance, through use of private foundations and grants. Coordinate with other agencies to protect ecological, historical and cultural resources
3. Applauded process. Need to have strong program for public education and involvement. Sees it is there, hopes it remains a priority. Hopes that small educational programs that work at local level will not be pushed aside as result of merger.
4. Concerns of livestock farmers. Need to work more closely together for speedy permitting and use of recyclable resources.
5. Stressed need for faster permitting. Decentralization is positive - gives regions authority to process permits without going back and forth.
6. Need for continuing education for individuals employed in environmental occupations.
7. State needs to encourage consumer decisions that can benefit the environment. This is the kind of environmental education that would be embraced.
8. Show graphically where DEQ will save some people and money for the state. Also, encourage state to spend time and money to attract industries that use post-consumer recyclables. This would create markets for industries and governments that do recycle.
9. Questioned closing the SWCB's Kilmarnock Office and the SAPC's Region IV Office. Don't want to have to drive to Richmond to work with agency.



**Roanoke (7/6/92) - Continued**

10. If DEQ is going to increase public participation and ensure public interaction and access, there needs to be a citizen's board reporting directly to the Secretary of Natural Resources. Sees this as a public advisory board. Even with how boards will be structured under DEQ, wants to see additional citizen access to DEQ.

**Abingdon (7/7/92)**

1. Wants public input and applauds efforts put forward to bring this together.
2. Important to speed up the permitting process. Consolidation can only help the process, especially when staff will be in the same location.
3. Would like to see coastal zone management programs transferred to DCR - Division of Soil and Water Conservation. Logical, cause DCR is the lead agency for non-point source programs. Since Congress has mandated that new non-point source programs be implemented through CZMA, it would be redundant to start new NPS programs at DEQ. Also, suggested that permitting for confined livestock operations be shifted to Soil and Water too. Reasoning is to have farmer deal with only one agency and make that the agency with most expertise in animal waste facilities.
4. In Southwest Virginia, the environmental regulatory programs are working well now. Concerned about centralism, clarity and complexity. Don't want Richmond involved, don't want a state EPA, don't want to lose existing contacts. To keep things simple and understandable, best to keep at a local level. In the statement of operating principles, need to give more emphasis on economic impact of agency actions.

**Weyer's Cave (7/13/92)**

1. Timeliness, consistency and quality in the permitting process is important. Expertise and training of the staff is going to be very important. Talked about nutrient management and role of dairy farmers. Recognized wisdom of consolidating agencies, with better permitting and trained staff.
2. Coordination envisioned by DEQ is essential for Virginia to meet evolving environmental problems and opportunities. Looking forward to coordination, interaction and additional capabilities of this merger.

**Weyer's Cave (7/13/92) - Continued**

3. When DEQ develops implementation of Goal 3, timely and quality permits, need to set forth schedules and time frames for issuance of permits and adhere to those time frames. Very important for design and financial planning of facilities.
4. Wants to assure Secretary Haskell that issues of environmental quality are of major concern to Valley residents. Urge DEQ to protect the Valley's open spaces. Several specific considerations:
  - implement state-wide strategic plan for preserving the environmental quality, including limits on growth
  - energy conservation should be part of pollution prevention and conservation incentives added to permitting
  - strict enforcement must be part of future operations
  - technical review of applications should include region - specific considerations
  - mechanism for ongoing citizen input on strategic planning and day-to-day operations
  - changes in permitting should not undermine citizen accessApplauds process of including citizens' views.
5. Three major problem areas: over centralization of existing agencies, over regulation and delay in processing administrative and judicial review of permit decisions. Currently, staff seems to focus too much on operational requirements. Would like more authority in the regional offices and more straight forward environmental standards. Would like to see DEQ declare right to formal hearing only where necessary and refrain from recommending expanded rights to judicially challenge permits. Also, would like to see better coordination with Department of Health and regional guidance in storm water permitting.
6. Certainly likes idea of citizen participation upfront. Thinks this will help eliminate some of the legal battles. Also, likes the idea of an Ombudsman.

Herndon (7/14/92)

1. Fully supports the proposed organization. Coordinated and comprehensive approach must be undertaken to resolve issues of environmental quality. Problems and solutions are inter-related. Consolidation will result in many benefits. Hopes for: 1) more field personnel to reduce backlog of cases that need investigating, 2) providing technical assistance to localities. Applauds initiative of Virginia in addressing the needs of the environment.
2. Thanks for wonderful consolidation that will help the regulated community. Asked several questions: Will permit review be shorter, will there be a new fee structure, will Technical Assistance Program be a place where citizens can get permit information?
3. Looks forward to the creation of DEQ and its promise of streamlined permitting, improved communications and better managed pollution. In order to enhance public involvement, suggests building on trend of public information and education sessions currently being conducted by individual agencies. Hopes such meetings can continue at DEQ, and will be even more of a priority. Could present seminars on applicable regulations and best practices to specific industry groups. A premium on educational efforts will encourage greater voluntary compliance and awareness.
4. Voiced general complaints as to current agency activities. Observed that SWCB has evolved from being a leader in policy, planning and enforcement to just issuing permits. Believes there may be great merit in DEQ, but it will need adequate staff and technological resources as well as permitting based on comprehensive planning. No assurance that overview/oversight role of COE will be retained.
5. High hopes for the success of DEQ. Need to consider growth management strategies and land-use planning. Hopes there will be truly effective cost/benefit analysis. Need to fully quantify the economic impacts of environmental destruction of industries. Concept of streamlining the permitting process scares environmentalists. Don't want to sacrifice anything in the process. For DEQ to effectively coordinate natural resource planning, need to consider agencies and programs outside the participating agencies.

Williamsburg (7/22/92)

1. Kilmarnock Office has been of great service to the seafood industry. If must close office, should not require people to come to Richmond. Questioned the regional boundary between Piedmont and Tidewater.
2. Questioned need for additional staff positions authorized during '92 session, if DEQ is supposed to be a more efficient agency. Richmond is not a central place to locate a regional office, especially for the Northern Neck concerns. Suggested West Point as an alternative location.
3. Supports long-term planning approach, pollution prevention activities, technical assistance group, an environmental advisory council and more funding for natural resource agencies. Hopes for earlier public participation opportunities during the permitting process and feels there has been too much emphasis on permitting.
4. VMRC should be added to the consolidation. DCR, DHR, DGIF and Forestry should all be involved in holistic approach to DEQ. COE should remain advisory and coordinating. Favors single, consolidated permit process.
5. Supportive of DEQ -- will help permitting and the environment. Concerned about closing Kilmarnock, likes idea of locating regional office in West Point.
6. Supports creation of DEQ, expanded public participation and standing for individuals in environmental law suits.
7. Supports creation of DEQ and keeping the public better informed. Would like to see enhanced pollution prevention and long-term planning. Would like Sieria Club to be involved in citizens' advisory group.
8. Based on experience of New York, it is important to staff regional offices based on volume of permits and work. Suggested Virginia could learn from mistakes of other states. Also, suggested adding other natural resource agencies, such as VMRC.

**Petersburg (9/21/92)**

1. How will the location of new regional offices be handled?
2. Who will be appointed Executive Director of DEQ?
3. Hopes that with new department, permittees won't have to keep making contacts to ensure permitting process moving along.
4. What kind of technical assistance is currently available?  
Seems that some agencies are more active than others.
5. Discussed increased regional responsibility.

## Notice of Public Meetings

### DEPARTMENT OF ENVIRONMENTAL QUALITY CITIZEN INFORMATION MEETINGS

Interested citizens, the regulated community, environmental organizations and local governments are invited to attend a presentation by the Secretary of Natural Resources, Elizabeth H. Haskell, and her staff on the new Department of Environmental Quality (DEQ).

At the direction of the 1992 Session of the General Assembly, four of Virginia's environmental agencies will be consolidated into one department. The new department will encompass the State Water Control Board, the Department of Waste Management, the Department of Air Pollution Control and the Council on the Environment. The new DEQ will begin operations April 1, 1993.

Prior to beginning operations, the Secretary is conducting an information gathering process. The planning process includes public input as well as agency recommendations. Currently, a Citizens Advisory Group is meeting to furnish guidance on the consolidation. Suggestions from the Citizens Advisory Group as well as public comments received from the public information meetings will be considered in the development of the new agency.

Purposes of the consolidation include:

- improving communication with and involvement of citizens, industries and local governments;
- streamlining the permitting process and allowing the regulated community to obtain permits through a single department;
- comprehensively managing the environment and preventing pollution from being shifted from air to water to land. The consolidation will also improve the Commonwealth's emergency response capability and allow for cross-media environmental planning and policy analysis.

We are seeking your comments on how the DEQ can be organized to deal with future environmental issues. How can the new DEQ enhance and increase public involvement? What new functions might be needed for the future that are not being addressed now through the affected agencies?

Those wishing to speak about the new department may do so; however, limitations may be imposed on the length of comments. Anyone wishing to submit written comments may do so by sending them to the Secretary of Natural Resources, Suite 733, 202 North Ninth Street, Richmond, Virginia 23219.

## APPENDIX 4

Summary of Concern from DEQ Citizens' Advisory  
Group -

Memo from Al Stem, Group Facilitator

MEMO ON SUMMARY OF CAG CONCERNS FROM AL STEM, GROUP FACILITATOR

**June 8, 1992**

**MEMORANDUM**

**TO: Elizabeth H. Haskell**

**FROM: Al Stem**

**SUBJECT: Summary Analysis of Views: Citizen Advisory Group, D.E.O.**

- The analysis that follows is an unscientific evaluation and summary of the views and opinions of the Citizen Advisory Group (CAG), collected from the meetings on April 24 and May 15, 1992. The information is arranged according to the key, topical areas most discussed by the CAG, along with commentary on each, based on written and verbal presentations made during the two meetings. Again, only those areas most discussed and largely reflecting a repetition across small group combinations of the CAG are summarized.

**AREA 1: PERMITTING**

Permitting seemed to dominate CAG's attention and group discussion. The central themes of **TIMELINESS**, **COORDINATION** and **CONSOLIDATION** occurred throughout the views presented. These elements stood out:

- a) The process should be clearly "defined" from beginning to end, with clear, up-front requirements and time tables for steps and completion.
- b) All agencies involved and the applications should be "multi-media" based and coordinated throughout the process to the extent major delays do not result; a form of simultaneous review, including consolidated hearings and forms and procedures, are desired.
- c) Dealing with a single and competent person who is easily accessible and possessing a helpful attitude is vital to success. This person is a facilitator and not the actual permit(s) writer.



- d) The regional offices should be delegated more authority for writing permits.
- e) All permit applications need to be fully disclosed and communicated to all affected/interested stakeholders, and their input needs to be obtained early on in the permit cycle before work investment has gone too far. (See Area 2 below)

## AREA 2: PUBLIC COMMUNICATION/PARTICIPATION

Closely tied to the permitting process, though not exclusively, the subject of public participation and communication produced the second wave of CAG interest. Expression mostly took the form of:

- a) Informing the public of what is happening and why appeared unanimous. Furthermore, doing so at the outset of any process (such as permitting) was uniformly deemed critical.
- b) Engaging the public in 2-way communication (such as "interactive public meetings") was viewed as a positive way to foster BOTH participation and mutual understanding in communities.
- c) Continuous education, through Regional outreach, and other "proactive" strategies would help communicate/market environment ethics and responsibilities of all stakeholders and citizens.

## AREA 3: REGIONS

The Regions were generally viewed as the basic structural entities delivering the "goods" to stakeholders as suggested in Areas 1 and 2 (above). Essentially:

- a) They should be staffed with competent, trained people who are empowered to produce results with efficiency and consistency. Better salaries will be needed to keep skilled staff.
- b) They should be multi-media organized and focused without slowing individual permits.
- c) They should have the Responsibility but especially the Authority to authorize actions and make decisions. (responsiveness and efficiency)
- d) They should be client-oriented in attitude by helping, educating, and facilitating.

- e) Their location should consider stakeholders and natural resource boundaries.

#### **AREA 4: POLICY AND PLANNING**

Many CAG members viewed the DEQ creation as an opportunity to provide a longer range perspective, outlook, and consistency to addressing environmental issues. Two vehicles were suggested:

- a) A long-range PLAN to provide a "bigger picture" and direction, to go beyond administrations and secretaries, and to produce a "game plan" for natural resource and environmental coordination and protection.
- b) The formulation of POLICY based on Pollution Prevention and grounded in good science, utilizing a consolidated data base. The notion of incentives for prevention were seen as vital to moving successfully from remediation to prevention. Scientific competency was viewed as coming from one or both mechanisms: a highly-skilled scientific policy Staff reporting to DEQ Director and/or a citizen and scientific advisory body (to DEQ or SNR)

## APPENDIX 5

Report of the Permitting Task Force

September 4, 1992

This report was prepared by the Permitting Task Force,  
following meetings with the Permitting Advisory Group.

9/4/92

## REPORT OF THE PERMITTING TASK FORCE

### Members:

Bernard Caton, Deputy Secretary of Natural Resources, Chair  
James Adams, Department of Waste Management  
Robert Burnley, State Water Control Board  
Pam Faggart, Department of Air Pollution Control  
Rob McLeod, Council on the Environment

### Introduction

The Department of Environmental Quality was created in part to enable the state to better protect the environment through a consolidated regulatory program, and to make the regulatory processes for environmental protection more user friendly for all those who took part in these processes.

The way most people will encounter DEQ on a day-to-day basis is through their involvement in the permitting process. This is true whether we are talking about industries, local governments, environmental groups, or the general citizenry. In addition, the permitting process is the most important institutional means of protecting the environment.

Because of this, we considered it essential to create an interagency task force to look at the permitting processes for those agencies going into DEQ, and to identify strategies that should be initiated to ensure that the new agency would be conducive to good environmental protection, but also helpful to all those involved in the permitting process.

This task force was made up of individuals responsible for the permitting programs in the air, water and waste agencies, and the individual in the Council on the Environment responsible for developing layman's and businessman's guides to the environmental permitting processes. We met approximately two to three times a month for a period of four months as a group (and are continuing to meet to follow up on some of these issues). In addition, we held two meetings with a citizens group created to advise us on ways that permitting should be approached by DEQ. Finally, we initiated a process with the Environmental Protection Agency to identify ways to streamline the permitting process by improving the state-federal interaction. This work is to be completed, and specific improvements are to be identified, by the end of 1992.

Based on the work of the task force members and the advice of the citizens, we make the following recommendations.

### Recommendations

1. A permit assistance unit should be set up in the new Department of Environmental Quality.
2. Permitting teams should be established for facilities with multi-media permits.
3. Greater technical assistance should be offered to the regulated community. This should be in the form of technical assistance seminars/training and technical assistance publications.
4. More informative public notices, written in everyday English wherever possible, should be used to inform the public of proposed permit actions.
5. The Department of Environmental Quality should delegate to its regional offices as many of its permitting programs and processes as possible.
6. The Department of Environmental Quality should set specific turnaround time goals for permit issuance.

### Discussion

#### Permit Assistance

The most common permitting complaints heard from both the regulated community and the general public involve the inability to understand how the permit process works, or how to determine where within the process a specific permit action is at a given time. This is not so serious a problem for large corporations with a group of employees hired to oversee the company's environmental regulatory activities, nor for those public interest organizations that follow permitting actions on a daily basis. But for the small or medium-sized industry, or for your average citizen who deals with regulatory permitting on a sporadic basis, the permitting process can be very difficult to understand.

In order to address these problems, a permit assistance unit, consisting of coordinators in each region as well as headquarters, will be established in DEQ. The persons working in this unit will provide a variety of services to permit applicants and the general public. For instance, each new industry (or existing industry seeking to expand) will be assigned an individual permit coordinator. This individual will track and report on the status of the permit application to the applicant and the public. Permit coordinators will also coordinate inter-media permit reviews.

The chart below summarizes some of the functions that will be carried out by permit coordinators at headquarters and in the

regions.

REGIONAL OFFICES

1. Provide assistance to permit applicants, including the status of permits in review.
2. Provide information to the public on the status of permits in review.
3. Provide information for internal audit on permit application, and review process effectiveness.
4. Work with permit writers to ensure that pollution is not merely being moved between media.
5. Deliver regular and special reports on permit processes and activities to headquarters.
6. Contribute to applicant oriented manuals and instructions about regulations and permit requirements.
7. Conduct seminars for permit applicants and consultants.

CENTRAL OFFICE

1. Provide materials and training for regional permit coordinators.
2. Provide information to the public on how the permit process works.
3. Design, monitor, and conduct internal audit procedures for permit processes.
4. Disseminate information on waste minimization experiences state-wide.
5. Compile agency-wide reports on permit processes and activities to the Governor, General Assembly, permittees, and the general public.
6. Prepare applicant-oriented manuals and instructions about regulations and permit requirements.
7. Coordinate statewide seminars for permit applicants.

Permitting Teams

For facilities that need more than one kind of permit, permit writers in DEQ will be organized into teams, with expertise from each pollution category (air, water, waste). Each team will be led by the team member representing the most complex permit. The key objectives of team collaboration will be, a) avoiding conflicting or confusing permit conditions, and b) identifying opportunities for the permittee for waste minimization.

When permits are not applied for simultaneously, or are due for reissuance at different times, permit writers will routinely

check with other team members to review the relationship between elements of the new permit and those in effect for the other media.

#### Technical Assistance: Seminars, Training and Publications

When asked what could be done to help them better comply with Virginia's environmental laws and regulations, permittees are nearly unanimous in their request that the state offer more technical assistance. In response to this, the Secretariat of Natural Resources has initiated a series of seminars and publications to help permittees better understand permitting processes and regulations. These have been very well received, and we can already see results from some in terms of better prepared permit applications.

Under DEQ, the technical assistance offered by individual environmental regulatory agencies will be consolidated and expanded. Among the plans now underway for the new agency are the following:

- A Business and Industry Guide to Environmental Permits in Virginia will be published and updated regularly by DEQ. Building on A General Guide to Environmental Regulations in Virginia (published in 1991), the Business Guide will give detailed information on the different types of permits needed in the Commonwealth, information needed for the different permit applications, and the processes used to prepare these permits. In addition, the publication will tell businesses who to contact for their specific permitting questions.
- Boilerplate permit applications are being developed for specific types of industries or facilities that are common in the Commonwealth, together with helpful instructions on how to complete the applications.
- Detailed instructions, written as much as possible in everyday English, will be prepared for other permit applications.
- Additional technical assistance seminars will be held on a regular basis. These will be designed, after consultation with permittees and the general public, to address regulatory issues where more information is needed (e.g., an annual update on changes to state environmental laws). These will also at times be geared to a certain segment of the regulated public (for instance, the seafood or coal industry).
- One-on-one technical assistance will also be offered to assist the regulated public. Examples of such assistance might be advice to wastewater treatment plant operators, or to small businessman who must comply with new Clean Air Act standards.

## Public Information

DEQ will develop better ways to inform the public about permit actions, including application, review, and draft permit conditions. Two specific improvements are in the planning stages.

- a) We will make the format and contents of public notices more readable and informative. Oftentimes, these notices are written in such a way that only a person with a strong technical background could understand them. Since these are aimed at the general public, they can, and should be, written in everyday English to the greatest extent possible.
- b) We are investigating the feasibility of setting up a telephone line that anyone could call to get a weekly update on permits currently out for public review. This would be easier for the average person than reading legal notices of a variety of newspapers.

## Regional Delegation

One important point made to us by members of the regulated community and the general public is the need to ensure that all the promises and plans we make will actually be implemented. Furthermore, many of them added, real change, in terms of responsiveness, is more likely to come about if programs are delegated as much as possible to those offices which are closest to the regulated community and the public--the regional offices. We agree with this approach, and endorse the concept of greater delegation of permitting programs as a part of DEQ regional delegation.

## Permit Turnaround Time

Any well-managed permitting system includes a number of performance expectations by the permit writers. Among these expectations is a given turnaround time for processing specific permit actions. In the past, this has existed in some cases, but not in others.

In the new DEQ, permitting staffs will have management systems in which specific goals are set for taking certain permit actions (e.g., for a minor permit, 95% of all complete applications should be approved or disapproved within 45 days of receipt).

This system should allow DEQ's top management to identify permit processing problems early on and deal with them accordingly. In addition, specific management goals such as this will give the public one means of evaluating the success of the new agency.

An additional way in which the public will be able to track



DEQ's success at streamlining the permitting process is by comparing numbers on the backlog of permits being processed at DEQ. The agencies going into the new department have begun keeping statistics on their individual backlogs. We are confident that the new resources that have been put into the permitting programs, together with the management improvements that DEQ will produce, will result in a reduction of the backlog. The data we are gathering and will make available to the public will allow the public to judge our success in the future.

## Appendix 6

### Map of Regional Boundaries and Offices for DEQ



**APPENDIX C**

**Written Testimony  
of the  
Virginia Manufacturers Association**



# VIRGINIA MANUFACTURERS ASSOCIATION

Box 412, Richmond, Virginia 23203, 204-643-7489, FAX 804-780-3853

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H. B. Hunter Company
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- LAMAR E. OXFORD, Gordonsville  
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Sovite Corporation
- JOHN L. ROPER, III, Norfolk  
Norfolk Shipbuilding & Drydock Corp.
- DONALD G. SMITH, Roanoke  
Roanoke Electric Steel Company
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Electrolux Corporation
- B.C. WAMPLER, Pictou  
Pictou Furniture Corporation
- J. REID WRENN, Charlottesville  
Brick & Tile Corporation

1992 Executive Committee

Carol C. Raper  
Vice President &  
General Counsel

TO: The Honorable Alan A. Diamonstein, Chairman  
HJR 41 -- Incentives and Obstacles Facing  
Business When Making Location Decisions in  
Virginia

FROM: Carol C. Raper

DATE: December 24, 1992

RE: Views of Industry Regarding Environmental  
Permitting and the Proposed Department of  
Environmental Quality (DEQ)

You have asked Virginia Manufacturers Association (VMA) for the views of industry concerning environmental permitting and the proposed Department of Environmental Quality (DEQ). When Maria Everett of Legislative Services posed this question to me on December 4, I was unable to formulate a response by the meeting of the HJR 41 Joint Legislative Subcommittee on December 9. Since that time, however, I have informally polled some of our individual VMA members and opened the issue for discussion at the meeting of our Environmental Affairs Committee on December 14. I appreciate the opportunity to submit this "white paper" summarizing the views we have learned from industry representatives on these complex and sensitive issues. We especially appreciate your willingness to consider our concerns since permitting and DEQ are matters of great importance to the industrial community.

### Overview and Summary

Industry has long urged that the environmental permitting process be more efficient and timely, citing the tremendous costs in lost business opportunities, competitiveness, and human and financial resources attributable to permit delays. For this reason, VMA was willing to support environmental permit fees -- even a year before the administration -- in order to speed-up the permitting process by hiring more personnel and bringing more resources to bear on the process. Where those fees have now gone into effect, we are beginning to see significant improvement in permitting. As the fee program continues to be implemented, we expect to see continued and concomitant improvement in permitting -- a key objective in our permit fee analysis, and part of the

trade-off in industry's acceptance of new fees. Pursuant to legislation passed in 1992, the environmental agencies are required to report their progress in granting permits to the General Assembly. This process should enable all interested parties to evaluate the effectiveness of permit fees toward expediting the permit process.

On the subject of DEQ, you may recall that there was some difference of opinion among members of the industrial community when the DEQ legislation was introduced at the 1992 session. Although we had little time to respond to the DEQ concept in the heat of the legislative process, it appeared to us that (1) some of our members opposed the concept, (2) four companies stood up and testified in support of the concept, and (3) most believed they lacked enough information on which to base an opinion. Accordingly, VMA did not take a position on DEQ, stating that we would be unable to evaluate the merits of the proposal until we knew how it would be implemented. Since the report of the Secretary of Natural Resources was released on November 1 -- and especially in very recent weeks -- it appears that the views of our members concerning DEQ range from opposition, on the one hand, to questions, concerns, and caveats, on the other hand. Likewise, proposed solutions appear to range from repealing the DEQ legislation to delaying implementation of DEQ for a period of not less than two years. Although we have not attempted to do a comprehensive survey, we know of no companies that are fully comfortable with going forward with DEQ on April 1, 1993, based on the current proposal.

In the paragraphs which follow, we attempt to explain these views and the reasons behind them based on the best information we have been able to compile.

### General Concerns

1. Strategic Plan vs. Implementation Plan. The Secretary's November 1 plan for DEQ is a strategic plan, enumerating overall goals and objectives. What we, and most industries, we believe, had expected to see on November 1 was an implementation plan. A number of industrial representatives were willing to go along with the DEQ legislation in 1992, because it required the administration to produce an implementation plan for the General Assembly's review prior to actual implementation. They wanted to afford the Secretary ample opportunity to pursue the idea of a combined agency, but they definitely took a "show me" view. Now, almost a year later, we in the industrial community frankly do not know much more about how DEQ will operate than we did when the legislation was proposed. Given the continuing unease we see within the industrial community, it does not appear that the administration has carried its burden as required by the 1992 legislation.

The Secretary stated in a recent briefing for business representatives that she was unable to develop an implementation plan until key people had been hired for DEQ. We believe that the reverse should be true. If persons are hired to fill key positions without an implementation plan, job descriptions, etc., these persons will carry out the strategic plan as they see fit. Without the guidance of an implementation plan, personnel could implement the strategic plan in ways that would not be agreeable to the General Assembly, the administration, or the public. This is precisely why we wanted an implementation plan well in advance of the 1993 legislative session, so that all parties could review and evaluate the plan, and we could all feel satisfied that there was a well-defined plan to control how DEQ would be implemented.

2. New Administration/Old Administration. Given that only a strategic plan has been developed for DEQ, we are concerned about the transition from the current administration to a new administration in January, 1994. At the above-referenced briefing, the Secretary stated that the plan itself would ensure a smooth transition, but we believe, as stated above, that a strategic plan is not sufficient to form a basis for initial implementation, much less transition from the implementation of one administration to the next. We question whether it is fair or prudent to bind a new administration with a partially-developed initiative of the previous administration.

We are also concerned that high-caliber personnel may not want to sign-on with an organization in such a high state of flux. Although the Secretary told your Commission that a nationwide search would be conducted for the Director of DEQ, we wonder how a qualified director could be hired in April of 1993, being subject to the wishes of a new Governor in January of 1994. To a lesser degree, the same would be true of candidates for lower-ranking positions in DEQ.

3. Content of Strategic Plan. Although we believe that the strategic plan needs to be fully developed into an implementation plan before implementation of DEQ, we also question some of the goals and premises contained in the current strategic plan. These are matters which other industry representatives and I presented during the deliberations of the DEQ Citizens Advisory Group, but which were not acted favorably upon by the drafters of the plan. A few examples of our concerns are as follows:

Although DEQ is touted as an organizational structure which will facilitate and streamline permitting, we are confused about the priority of permitting among DEQ's stated goals. Permitting is listed as goal number three, while goal number one is pollution prevention, and goal number two is reducing levels of pollutants. I was told by the consultant at a DEQ Citizen Advisory Group

meeting that the numbering of the goals did indicate priority. His statement is consistent with the strategic plan itself, which states, "promoting pollution prevention is Goal I of the new department" (page 24). By contrast, we understand that other statements have been made to the effect that the numbering of the goals do not indicate priority. Consequently, there is confusion about what DEQ's priorities actually will be.

Although we believe that a balancing of environmental protection with economic concerns is crucial to ensure economic development, competitiveness, and jobs in our state, this premise appears nowhere among DEQ's goals. We find merely a brief reference to economic concerns in the last operating principle set forth in the report -- "be sensitive to the economic and environmental impacts of our actions." Economic impacts and the costs and benefits of regulatory alternatives are very important to our members and deserve, we believe, greater emphasis.

4. Permit Fees. At the request of Secretary Haskell, VMA agreed to work with her and not oppose environmental permit fee legislation during the 1991 legislative session. Although industry had historically opposed permit fees, we believed the time had come to consider paying fees as a method to improve what had often become a protracted and expensive permitting process in Virginia. We did in fact support the concept of permit fees in 1991, but when the administration abandoned its support we were forced to retreat from the legislative process. We then worked with members of the administration and General Assembly in 1992, however, to draft and pass permit fee legislation with safeguards which we hope will -- and intend to -- actually result in more efficient permit processing.

Preliminary air permit fees went into effect during the summer of 1992, and we are encouraged that some of our members reported at our recent environmental affairs meeting that air permitting has already improved significantly in their regions. We understand that water fees will be implemented during the summer of 1993. As fee programs are implemented in each of the departments, and additional personnel and resources are assigned to the permitting process, we expect to see continued improvement in permitting services and an appropriate decrease in permit-processing time.

All interested parties will be able to track the success of this program because the 1992 permit legislation requires each agency to report to the General Assembly on a regular basis as to the number of permits granted, backlogs, etc. Under these circumstances, it may be advisable to see how effective permit fees, and the personnel and resources they can buy, have become in solving the permit problem before launching into a new organization and strategy. In addition, it would probably be helpful for these many



new employees (approximately 70 in air, 50 in waste, and an unknown number in water) to enter a stable working environment rather than the upheaval which accompanies structural reorganization.

Permit fees, additional personnel, and other initiatives which are possible and advisable under the current organizational structure may well produce the regulatory efficiency and services we all desire, without the upheaval and potential pitfalls of a combined agency structure.

Certainly, the Secretary and her staff are to be credited with putting together some excellent ideas in the strategic plan for DEQ. Many of these ideas, however, can be implemented without a formal DEQ structure (e.g., greater regional empowerment, better cooperation, better service can be implemented now). We understand that the Secretariat of Natural Resources was created primarily to provide such coordination, policy guidance, and service. Many industries, we believe, would like to see how much progress can be made under the current system, especially since initial feedback on permit fees and the ideas generated through the strategic plan indicate that a great deal can be accomplished and is, in fact, already underway under the current agency structure.<sup>1</sup>

The potential downside of failing to wait and evaluate the current approach, and of implementing DEQ before the parameters of its implementation are fully developed and understood, may be significant. The "quick and dirty" polling of our members with multi-state operations which we were able to accomplish during the 1992 legislature showed varying views on the effectiveness of consolidated environmental departments in other states. More recently-expressed views from our members who have actually dealt with these combined agencies extensively indicate much more criticism of consolidated agencies than we were originally aware of. Some of our members describe such agencies as huge and

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1 A press release dated December 15, 1992, describes an agreement between the Commonwealth of Virginia and EPA Region III which should help streamline Virginia's environmental permitting process. The Secretary of Natural Resources states in the press release that DEQ is critical to the success of this action plan between EPA and Virginia. The attached action plan itself, however, describes working relationships and arrangements between EPA Region III and each of the currently-existing environmental agencies -- air, water, and waste. Prior to issuance of the press release, it had been our understanding that EPA would limit its review of water permits to ten days if the Water Board continued to utilize staff guidance of which EPA approved, and that this arrangement would become effective prior to and separate from the proposed implementation of DEQ. We are unclear why DEQ is necessary for this type of action plan to work.

powerful bureaucracies which are unresponsive to the regulated community and legislatures alike. In short, we believe that it is the widely-expressed sense within Virginia's business community that there are still too many unknowns concerning DEQ for us to feel comfortable in moving ahead toward a combined agency which could in any way resemble this scenario, as some of our members have described it.

Possible Recommendations by HJR 41

1. Repeal the 1992 DEQ legislation, freeing the new administration (a) to evaluate the effect of permit fees, increased staff, and other initiatives which are being implemented or can be implemented under the current structure, and then (b) to determine if and how to move forward with its own plan for a consolidated environmental agency.

2. Legislatively delay implementation of DEQ for a minimum of two years -- from April 1, 1993, to April 1, 1995. This approach would allow approximately one year to evaluate the effectiveness of permit fees, additional personnel, and other measures, and then allow the new administration approximately one year to develop an implementation plan for DEQ, which would be reviewed by the 1995 legislature and then implemented on April 1, 1995. This approach would commit the new administration to implementing DEQ unless it persuaded the 1994 or 1995 General Assembly to amend or repeal the enabling legislation.

3. Under either approach, urge the current administration to implement some of the ideas in the DEQ report as soon as possible. Better coordination, more efficiency, more regional authority, and many other goals can be achieved to a high degree, we believe, under the existing organizational structure.

\* \* \*

The foregoing is a summary of the concerns and views expressed to us by many of our members -- in other words, "what we are hearing now." Our president, Mac MacIlroy, and I have been studying and discussing these issues extensively -- with each other, with our members, with attorneys who represent our members and other business clients, and with our colleagues in other business and trade associations. Among those who have followed the issue, these concerns appear to be widespread. We appreciate the opportunity to submit these questions and concerns for your consideration.

The Honorable Alan A. Diamonstein  
December 24, 1992  
Page 7

If you have further questions or would like to meet with VMA representatives and possibly other members of the business community, please let me know. Mac and I would enjoy the opportunity to discuss permitting, DEQ, and the broader issues of business-location decisions with you.

My best wishes for a happy Holiday Season.

Sincerely yours,



Carol C. Raper  
Vice President and  
General Counsel

CCR/jmi

cc: Maria K. Everett, Esquire  
Mr. John W. MacIlroy