



COMMONWEALTH of VIRGINIA

Office of the Governor

Doug Domenech
Secretary of Natural Resources

To: Walter A. Stosch, Chair Senate Committee on Finance
Emmett W. Hanger, Jr., Chair Senate Committee on Agriculture, Conservation and Natural Resources
Lacey E. Putney, Chair House Committee on Appropriations
Beverly J. Sherwood, Chair House Committee on Agriculture, Chesapeake and Natural Resources

From: Douglas W. Domenech, Secretary of Natural Resources

 for Secretary Domenech

Date: May 25, 2013

Subject: Report on the Transfer of Full Time Employees/Maximum Employment Level and Appropriations pursuant to HB 2048 / SB 1279

This report is being submitted pursuant to the eleventh enactment clause of House Bill 2048 (Sherwood – 2013) and Senate Bill 1279 (Hanger – 2013) and provides information regarding (i) the transfer of any full-time employees and total maximum employment level employed in the administration of the programs being transferred by HB 2048 / SB 1279 and (ii) the transfer of appropriations, including special funds, for programs identified for transfer in HB 2048 / SB 1279.

Background

Currently in Virginia, point source pollution activities are regulated by programs conducted by the Department of Environmental Quality (DEQ), and nonpoint source pollution activities are managed by programs conducted by the Department of Conservation and Recreation (DCR). Last year, Governor McDonnell's Commission on Government Reform and Restructuring recommended consolidating water quality permitting and planning programs into a single agency. Following that recommendation, during the 2012 Session, the General Assembly asked the Secretary of Natural Resources to work with the Directors of DEQ and DCR and stakeholders in conducting an assessment of the organization of Virginia's water quality programs. That assessment found that the water quality permitting process in Virginia is made more difficult under the current bifurcated approach because no one agency has the responsibility and authority to look comprehensively at water quality permitting issues. The assessment found that consolidation of the permitting functions would enable consistent planning, policies and procedures for all water permit programs. A single point of contact for the regulated community, citizens and federal agencies would also streamline the permit process, improve customer service, and streamline Virginia's reporting obligations to the Environmental Protection Agency.

Further, the advent of the Chesapeake Bay Total Maximum Daily Load (TMDL) and its related water quality issues has demonstrated the difficulty of having water quality permitting programs in two separate agencies managing point and nonpoint pollution sources. It became apparent early in the development of Virginia's Chesapeake Bay TMDL Watershed Implementation Plan that even with significant consultation and collaboration between the DCR and the DEQ, the process was made more difficult because no one agency was given the responsibility and authority to look comprehensively at nutrient and sediment issues across the full spectrum of sources. Virginia has many other waters subject to the TMDL process in addition to the Chesapeake Bay, which also would benefit from a single agency approach. Finally, the assessment found that single agency oversight for point and nonpoint water quality programs would provide for the comprehensive long-term and strategic planning needed to address Virginia's complicated water quality challenges.

HB 2048 / SB 1279

Following the assessment of the organization of Virginia's water quality programs, the administration worked with members of the General Assembly on legislation that would implement the necessary legislative changes to consolidate the Commonwealth's water quality programs at the Department of Environmental Quality. This legislation, HB 2048 and SB 1279, was adopted by the General Assembly during its 2013 Session. This legislation, which will become effective on July 1st of this year, will move the stormwater permitting, erosion and sediment control and Chesapeake Bay Preservation area programs currently under the purview of the Virginia Soil and Water Conservation Board and staffed by the Department of Conservation and Recreation to the State Water Control Board and the Department of Environmental Quality. Voluntary water quality programs, including oversight of Virginia's soil and water conservation districts, the resource management planning program, nutrient management planning program and Virginia's agriculture cost-share program will remain under the purview of the Virginia Soil and Water Conservation Board and the Department of Conservation and Recreation.

Overview of Transfer of Programs from DCR to DEQ

The DCR Division of Stormwater Management includes funding and staff for stormwater management, erosion and sediment control, Chesapeake Bay Preservation areas, Nutrient Management and Soil and Water Conservation District support and is the DCR Division primarily affected by the transfer. The DCR Division of Stormwater Management, consists of a classified Maximum Employment Level (MEL) of 122. The DCR Division of Stormwater Management affected appropriations total \$23,971,742, including \$3,333,117 in general funds and \$20,638,625 in non-general funds. In addition, DCR appropriations of \$27,553,491 dedicated to Soil and Water Conservation District technical and financial support and agricultural best management practices cost share assistance were not included in this appropriations analysis but do provide match to the grant programs included in the consolidation transfer and are included in the financial summary.

Early in March 2013, DEQ and DCR staff formed Finance and Grants workgroups that were tasked with analyzing funding and data sources to determine allocations to DEQ from DCR required by the transfer of

programs provided by HB 2048 / SB 1279. The basic methodology used by the groups was that funding and personnel for the water quality planning, stormwater permitting, erosion and sediment control and Chesapeake Bay preservation area programs were allocated to DEQ. DCR will retain staffing and funding for the support of the Soil and Water Conservation districts (including cost share assistance) as well as the resource management and nutrient management programs. Additionally, analysis was required for the activities supported by federal funds because DCR receives federal funding both to support programs which will be transferred to DEQ as well as programs that will remain with DCR.

Personnel costs were allocated based on the existing position descriptions. As a result of this review, of the 122 positions in the DCR Division of Stormwater Management, 83 positions were identified as performing activities to be transferred to DEQ and the remaining 39 positions perform activities remaining with DCR. The following information and attached tables detail the appropriation allocations and MEL allocation for DCR and DEQ based on this personnel allocation methodology. General Fund appropriations were allocated based on full FTE funding and existing costs for rent, VITA, vehicles and cell phones. The remaining general fund balance of \$199,223 was allocated to DEQ (\$133K) and to DCR (\$66K) based on FTE count. Appropriations for regional lease costs (\$284K) for the 7 DCR regional locations were fully allocated to DCR as co-location opportunities are evaluated.

Program/Service Area/Fund Detail

The following financial table provides a financial summary of the DEQ and DCR budgets and funds transferring by service areas.

DCR and DEQ Water Quality Consolidation

Financial Summary for the Stormwater Management Area and Administration

Annual Appropriation Effective July 1, 2013

	Fund Code	DCR	DEQ	Total
Total Appropriation, FY 2014	All	123,393,030	153,767,475	277,160,505
Total GF Appropriation, FY 2014	100	44,283,470	33,663,494	77,946,964
Total NGF Appropriation, FY 2014		79,109,560	120,103,981	199,213,541

DCR Land and Resource Management (503 program)

Stormwater Management Only (50301)

General Fund (50301 service area)	100	1,464,223	1,868,894	3,333,117
Special Funds	200	217,320	1,795,174	2,012,494
Chesapeake Bay Restoration Fund	252	371,822	-	371,822
Indirect Cost Recoveries	280	75,000	-	75,000
Virginia Stormwater Management Fund	902	-	2,384,922	2,384,922
Sludge Management Fund	908	187,995	-	187,995
Water Quality Improvement Fund (WQIF)	934	8,000,847	-	8,000,847
Federal Funds	1000	2,605,545	5,000,000	7,605,545
Total of Stormwater Management Area		12,922,753	11,048,989	23,971,742

Dam Inventory, Flood Plain Mgmt. (50314)	All	2,802,779	-	2,802,779
Natural Heritage (50317)	All	4,044,240	-	4,044,240
Financial Assistance to SWCD (50320)	All	6,687,091	-	6,687,091
Technical Assistance to SWCD (50322)	All	2,128,000	-	2,128,000
Agricultural Best Management Practices Cost Share	All	18,738,400	-	18,738,400
Total of Land and Resource Management		47,323,263	11,048,989	58,372,252

DCR Administration Service Area (59901)

General Fund - Affected Areas of the Consolidation Only (59901 service area)	100	602,124	239,181	841,306
General Fund - Balance of 59901 service area	100	6,249,938	-	6,249,938
Nongeneral Funds		1,191,354		1,191,354
Total Administration Service Area		8,043,417	239,181	8,282,598
Total Land and Resource Mgmt. and Administration		55,366,680	11,288,171	66,654,850

Fund 0200 transfer to DEQ represents appropriations of \$1.795 million for training and certification fees for Erosion and Sediment control and Responsible Land Disturber; however the revenues collected for these activities average \$600,000 annually.

Fund 0252 represents appropriations for Chesapeake Bay license plate fee revenue.

Fund 0280 represents indirect costs for federal grants.

Fund 0902 represents appropriations from stormwater permit fee revenue of \$2.385 million; however, revenues collected average \$1.2 million annually.

Fund 0908 represents appropriations for nutrient management activities.

Fund 0934 represents appropriations for Water Quality Improvement Fund grant projects. DEQ will need an administrative appropriation adjustment in FY 2014 for WQIF in this fund and the 0935 WQI Reserve Fund,

depending on year-end balances at June 30, 2013. \$ 1 million will need to be appropriated in the WQIF 0934 and the amount of the cash transfer (balance of the unexpended funds) from DCR to DEQ will need to be appropriated in the WQI Reserve Fund (0935).

Fund 1000 represents base appropriations for federal grants. The grants include §319 nonpoint source, Chesapeake Bay Regulatory and Accountability Program and Chesapeake Bay Implementation grants. Federal appropriation transfers will be necessary between DEQ and DCR when final grant allocations are determined. DEQ will assume grant management responsibility for all grants.

General Fund –Affected areas only reflect allocations from DCR’s General Administrative appropriations moving to DEQ. These include monthly PC costs (\$92k), IT storage costs (\$10k), one policy position transferring to DEQ (\$78k), some Attorney General fees (\$50k), payroll service costs (\$9k) and some auto insurance (less than \$1k), for a total of \$239k transferring to DEQ.

Bond funds for the Stormwater Local Assistance Fund (\$35 million), Combined Sewer Overflow (\$75 million) and WQIF (\$106 million) are not included in base appropriations but will be administratively appropriated to DEQ during the year.

Timeline

The personnel transfer is effective with the June 25, 2013 payroll. Appropriation transfers will be effective July 1, 2013. Non-general fund cash balances for Funds 0902 and 0200 will be transferred in July, 2013 after final Commonwealth Accounting and Reporting System (CARS) close. Federal grant management responsibility will transfer upon the Environmental Protection Agency (EPA) approval.

Considerations Going Forward

The programs transferring from DCR to DEQ currently carry a 45% vacancy rate (37 vacancies out of 83 positions). The current plan is to try to fill some of these vacant positions, but the current revenues collected from permit fees for the program do not support full staffing. (See Attachment A) Also, training fee annual revenue averages \$600K that will only support existing staff with limited program support funds. Due to technological and personnel overlap, additional costs may be incurred beyond the current appropriation. This is due to shared resources that will be separated due to the program transfers that may require additional VITA or program project management personnel costs. An example of this is DCR may not be able to fund positions to fulfill code requirements like 10.1-104.7, Resource Management Planning. Additionally, most of the reporting for nonpoint source pollution activities and data management support will go to DEQ. DCR still has significant needs to manage agricultural program data and reports with limited remaining resources. In addition, DEQ will have unfunded costs for the VITA UCaaS phone system for transferring staff and contractors as DCR did not have appropriation for this cost. In this analysis, DEQ will receive one FTE and appropriation for grants management and accounting operations that is not sufficient to support the extensive financial work load associated with three federal grants and significant fee revenue billing and collections. All funding sources will be evaluated for use in filling revenue gaps.

Attachment A

DCR-DEQ Water Quality Consolidation
 Summary of Classified Positions Impacted
 As of May 17, 2013

Fund Name	Fund Code	DCR Filled	DCR Vacant	DCR Total	To DEQ - Filled	To DEQ - Vacant	To DEQ - Total	Total Classified Positions
Total MEL	All			535			890	1425
Total GF Positions	0100			434.50			386.50	821
Total Nongeneral Fund Positions				100.50			503.50	604
Stormwater Management Area Only:								
General Fund	0100	9	2	11	17	5	22	33
Special Funds	0200	0	0	0	5	3	8	8
Virginia Stormwater Management Fund	0902	0	0	0	11	24	35	35
Sludge Management Fund	0908	1	1	2	0	0	0	2
Federal Funds	1000	21	5	26	13	5	18	44
Total		31	8	39	46	37	83	122

Fund 0902 - Current revenue of \$1.2 million supports approximately 17 FTE, which leaves 18 unfunded FTEs.

Attachment B

DCR and DEQ Water Quality Consolidation
Financial Summary for the Stormwater Management Area and Administration
Annual Appropriation Effective July 1, 2013

Major Object Codes by Fund

Only Amounts Moving to DEQ	GF for Stormwater Service Area - 50301	Special Funds for Stormwater	Virginia Stormwater Mgmt. Fund	Federal Funds	GF for Admin. Service Area - 59901	Total Coming to DEQ
1100 - Personal Services	1,612,166	579,739	2,339,062	1,364,158	78,000	5,973,126
1200 - Contractual Services	241,727	1,137,069	45,860	52,433	101,682	1,578,772
1300 - Supplies and Materials	15,000	180		13,166		28,346
1400 - Transfer Payments				3,292,479		3,292,479
1500 - Continuous Charges		68,525	-	266,984	59,499	395,008
2200 - Equipment	-	9,660		10,780		20,440
Total	1,868,894	1,795,174	2,384,922	5,000,000	239,181	11,288,171

* Personal services are based on the positions that are moving to DEQ. Most other costs are based on FY 2012 actuals for Stormwater, with any balances being placed in the largest of the major object codes.

*Special funds and Virginia Stormwater Management fund revenue supports only personnel as revenues do not support full appropriations at this time.