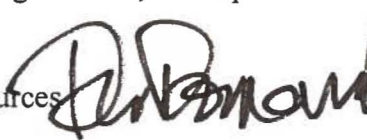




COMMONWEALTH of VIRGINIA
Office of the Governor

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 

Date: October 7, 2013

Subject: Report on the process for distributing funds to Soil and Water Conservation districts pursuant to § 319 of the federal Clean Water Act and § 6217 of the federal Coastal Zone Management Act. (Process for distributing funds 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 on the process for distributing funds to Soil and Water Conservation districts pursuant to § 319 of the federal Clean Water Act and § 6217 of the federal Coastal Zone Management Act.

Background

Prior to July 1, 2013, point source pollution activities were regulated by programs conducted by the Department of Environmental Quality (DEQ), and nonpoint source pollution activities were managed by programs conducted by the Department of Conservation and Recreation (DCR). During 2011, 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 became effective on July 1st of this year, moved the stormwater permitting, erosion and sediment control and Chesapeake Bay Preservation area programs from 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 remain under the purview of the Virginia Soil and Water Conservation Board and the Department of Conservation and Recreation.

Overview of Funds Distribution Process

- a. The Clean Water Act § 319 nonpoint source (NPS) program is an integral component and funding source for state NPS management programs which aim to control NPS pollution to achieve and maintain beneficial uses of waters. Virginia § 319 funds for Soil and Water Conservation Districts (SWCDs) are available for TMDL Implementation Project Funding. These funds are allocated as follows:
 - i. New Projects starting 2012 and later: Projects that started in 2012 or later follow a solicitation process. All funds made available to fund these new TMDL Implementation Projects are distributed through competitive request for project grant proposals to qualifying localities, SWCDs, Planning District Commissions (PDC) and non-profit organizations. DEQ solicits project proposals from qualifying organizations in qualifying geographic areas in the Fall to award project funding to begin the following July. All proposals are ranked and evaluated by established criteria listed in the solicitation. A recommended list of projects is submitted to the Environmental Protection Agency with DEQ's § 319 grant work plan for approval. Although not targeted to just SWCDs, these funds are available to SWCDs on a competitive basis.

- b. The purpose of § 6217 of the federal Coastal Zone Management (CZM) Act is to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.
 - i. Federal Fiscal Year 2009 was the last time that Congress appropriated funding for § 6217. Therefore, since federal FY 2010, the Virginia CZM Program has not been able to provide grant funds to state agencies, regional planning districts or local governments for implementing the state's Coastal Nonpoint Source Pollution Program.