

**Assessment of Water Quality Improvement Fund Reimbursement Models and  
Amounts to Localities with High Fiscal Stress, Median Household Incomes  
Below the Commonwealth's Average, and Limited Ratepayer Capacity**

**Virginia Department of Environmental Quality  
COMMONWEALTH OF VIRGINIA**

**December 15, 2020**

## **List of Abbreviations**

Act – Virginia Water Quality Improvement Act of 1997

COLG – Commission on Local Government

Department or DEQ – Department of Environmental Quality

Fund – Virginia Water Quality Improvement Fund

Guidance Memo – Guidance Memorandum No. 06-2012, Amendment #1

WQIA – Virginia Water Quality Improvement Act of 1997

WQIF – Water Quality Improvement Fund

WQIF Guidelines – Virginia Water Quality Improvement Fund Guidelines

## I. Executive Summary

This report was prepared by the Department of Environmental Quality (Department or DEQ) pursuant to Item #377 K in the Commonwealth's 2020-2022 biennium budget (2020 Va. Acts Ch. 1289). This budget item provides that:

The Department shall assess alternative reimbursement models and reimbursement amounts for nutrient removal grants provided to projects serving a locality or localities with: (i) high fiscal stress as defined by the Composite Fiscal Stress Index; (ii) median household incomes below the Commonwealth's average; and (iii) the capacity of ratepayers to absorb the additional costs of financing nutrient removal projects. The Department shall provide a report detailing its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 15, 2020. (Va. Acts Ch. 1289 Item #377 K).

The Department has reviewed pertinent sections of the *Code of Virginia*, the Virginia Water Quality Improvement Fund Guidelines (WQIF Guidelines), and Guidance Memorandum No. 06-2012, Amendment #1 (Guidance Memo). These documents currently provide for an alternative reimbursement model and reimbursement amount for nutrient removal grants provided to projects serving localities with high fiscal stress, below average median household incomes and limited capacity of ratepayers to absorb project financing costs. Specifically, the current Act provides the DEQ Director with flexibility to approve a higher WQIF grant amount to a local government that submits a request for a grant that exceeds the authorized grant amount. In considering such requests, the DEQ Director is to consider the local government's comparative revenue capacity, revenue efforts, and fiscal stress as reported by the Commission on Local Government (COLG).

## II. Background

The purpose of the Virginia Water Quality Improvement Act of 1997 (Act or WQIA) is “to restore and improve the quality of state waters and to protect them from impairment and destruction for the benefit of current and future citizens of the Commonwealth” (§ 10.1-2118 of the *Code of Virginia*). The Act was amended in 2005 to better reflect current water quality needs and priorities in Virginia, particularly the implementation of Chesapeake Bay “Tributary Strategy Plans” and the removal of Virginia waters on the Clean Water Act list of impaired waters. Because this is a shared responsibility between state and local governments and individuals, the Act also created The Water Quality Improvement Fund (Fund or WQIF). The purpose of the Fund is “to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, state agencies, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs” (§ 10.1-2128(B) of the *Code of Virginia*).

The Department of Environmental Quality has the responsibility to provide technical and financial assistance to local governments, institutions of higher education and individuals for the control of point source pollution. The Department of Conservation and Recreation has the responsibility to provide technical and financial assistance to local governments, soil and water

conservation districts, institutions of higher education and individuals for nonpoint source pollution prevention, reduction and control programs. Since the Fund is nonreverting, any money not spent in the fiscal year appropriated will remain in the Fund for use in subsequent years.

For projects located in the Chesapeake Bay watershed, the Act requires that the DEQ Director enter into grant agreements with all facilities designated as significant dischargers or eligible nonsignificant dischargers that apply for nutrient removal technology grants. DEQ has developed guidance for the purpose of assuring a consistent and equitable decision making process in reviewing applications, prioritizing agreement drafting/negotiation, and determining eligible scopes of work and appropriate cost-share percentages. Pursuant to 2019 amendments to the *Code of Virginia*, the Act also states that the Director of the Department of Environmental Quality may enter into grant agreements for certain wastewater conveyance infrastructure projects provided specific criteria are satisfied.

For projects located outside the Chesapeake Bay watershed, the criteria for prioritizing funding requests include:

- the pounds of nutrient reduction for each project;
- whether the location of the project is within a watershed or subwatershed with documented nutrient loading problems or adopted nutrient reduction goals;
- whether the location of the project is within a watershed with a documented water quality impairment; and
- availability of other funding mechanisms.

As provided in §10.1-2131(C) of the Act, the cost for design and installation of nutrient removal technology (including reclamation/reuse) at publicly-owned treatment works meeting the nutrient reduction goal in an approved tributary strategy plan or applicable regulatory requirement and incurred prior to execution of a grant agreement is eligible for reimbursement from the WQIF. Additionally, the cost for design and installation of certain wastewater conveyance infrastructure projects is eligible for grant funding.

### III. WQIF Reimbursement Model and Reimbursement Amount

The *Code of Virginia* provides that WQIF grant percentages are calculated based on the financial need of the community. A description of the reimbursement model used for this calculation is established in §10.1-2131(D) and (E) of the Act:

D. The grant percentage provided for financing the costs of the design and installation of nutrient removal technology at publicly owned treatment works shall be based upon the financial need of the community as determined by comparing the annual sewer charges expended within the service area to the reasonable sewer cost established for the community.

E. Grants shall be awarded in the following manner:

1. In communities for which the ratio of annual sewer charges to reasonable sewer cost is less than 0.30, the Director of the Department of Environmental Quality shall authorize grants in the amount of 35 percent of the costs of the design and installation of nutrient removal technology;

2. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.30 and less than 0.50, the Director shall authorize grants in the amount of 45 percent of the costs of the design and installation of nutrient removal technology;

3. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.50 and less than 0.80, the Director shall authorize grants in the amount of 60 percent of the costs of design and installation of nutrient removal technology; and

4. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or greater than 0.80, the Director shall authorize grants in the amount of 75 percent of the costs of the design and installation of nutrient removal technology.

The WQIF Guidelines provide information on the method utilized to calculate the ratio of annual sewer charges to reasonable sewer cost:

The "reasonable sewer cost" for each WQIF grantee will be determined using guidelines developed and approved by the State Water Control Board for use with the Virginia Clean Water Revolving Loan Fund. The grantee's annual sewer charge shall be defined as the average yearly expense for residential sewer service per housing unit that is currently being charged at the time application is made for WQIF cost-share. The above ratios will be calculated by dividing the current annual sewer charge by the reasonable sewer cost. Where multiple jurisdictions are provided sewer service through a regional district, authority or an inter-municipal sewer agreement, a weighted average of the median household income and a weighted average sewer charge will be calculated for comparison to the "reasonable sewer costs." These factors will be based on the current conditions regarding the portion of plant capacity presently used by each jurisdiction and location of residents served. Annual sewer charges and back-up documentation will be requested as part of each application. (WQIF Guidelines, p. 13).

#### IV. Alternative Reimbursement Models and Reimbursement Amounts

Section 10.1-2129(B)(3) of the Code of Virginia provides authority to the DEQ Director to approve a grant application request that exceeds the grant amount outlined in Section §10.1-2131(E) and described in Section III of this report. Section 10.1-2129(B)(3) provides in part:

Notwithstanding the provisions of subsection E of § 10.1-2131, the Director of the Department of Environmental Quality may approve a local government point source grant application request for any single project that exceeds the authorized grant amount outlined in subsection E of § 10.1-2131. Whenever a local government applies for a grant that exceeds the authorized grant amount outlined in this chapter or when there is no stated limitation on the amount of the grant for which an application is made, the Directors and the Secretary

shall consider the comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government.

Guidance Memorandum 06-2012, Amendment #1 was drafted to accomplish two things: 1) assure the use of a consistent and equitable decision making process in reviewing applications and prioritizing grant agreement drafting/negotiation, and 2) standardize methodologies used to determine the eligible scope of work and appropriate cost-share percentages for units comprising the nutrient reduction technology being designed and installed.

Section 2 of the Guidance Memo provides instructions for determining the appropriate grant percentage, and, more specifically, requests for cost-share above authorized amounts. The Guidance Memo provides in part:

**Requests for cost-share above authorized amounts** — The Director may approve a request for cost share above the authorized grant amount specified in the WQIF. Whenever an application exceeds the authorized grant amount, the Director shall consider the additional factors of comparative revenue capacity, revenue efforts and fiscal stress as reported by the Commission on Local Government. Staff will apply these criteria for grant requests above 75%:

- i. If ratio of current sewer cost to reasonable charge is **1.0 or above**, and locality's fiscal stress rating is "**above average**", then **cost-share = 80%**.
- ii. If ratio of current sewer cost to reasonable charge is **1.0 or above**, and locality's fiscal stress rating is "**high**", then **cost-share = 90%**.
- iii. If ratio of current sewer cost to reasonable charge is **1.25 or above**, then **cost-share = 90%**. (The COLG's fiscal stress rating may be used to judge the reasonableness of this cost-share level, acknowledging that Towns do not have separate ratings apart from the surrounding County.) (Guidance Memo, p. 3-4).

This alternative reimbursement model provides the Department with an appropriate and acceptable method to evaluate a locality's fiscal stress, median household income, and capacity of ratepayers to absorb the additional costs of financing nutrient removal projects and provide an alternative reimbursement amount to localities that have a sufficiently high fiscal stress, below average median household income and limited ratepayer cost absorption capacity.

## V. Conclusion

Section 10.1-2131(D) and (E) of the *Code of Virginia* provides that cost share amounts for WQIF grants is to be based on the financial need of the community as determined by comparing the annual sewer charges expended within the service area to the reasonable sewer cost established for the community. In addition, the *Code of Virginia* and Guidance Memo currently provide for an alternative reimbursement model and reimbursement amount for nutrient removal grants provided to projects serving localities with high fiscal stress, below average median household incomes and limited capacity of ratepayers to absorb project financing costs. Specifically, the Act provides the DEQ Director with flexibility to approve a higher WQIF grant amount to a local government that submits a request for a grant that exceeds the authorized grant amount. In considering such requests, the DEQ Director is to consider the

local government's comparative revenue capacity, revenue efforts, and fiscal stress as reported by the Commission on Local Government (COLG).