

Waste, Air and Water Program Funding Strategies

November 2003

Submitted by the Secretary of Natural Resources in Accordance with item 376 of the
2002 Appropriations Act



COMMONWEALTH of VIRGINIA

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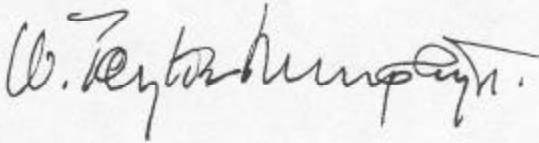
MEMORANDUM

TO: The Honorable John H. Chichester, Chair
Senate Finance Committee

The Honorable Charles S. Hawkins, Chair
Senate Agriculture, Conservation and Natural Resources Committee

The Honorable Vincent F. Callahan, Jr., Chair
House Appropriations Committee

The Honorable M. Kirkland Cox, Chair
House Agriculture, Chesapeake and Natural Resources Committee

FROM: W. Tayloe Murphy, Jr. 

DATE: December 8, 2003

SUBJECT: **Regulatory Program Funding**

Please accept the enclosed report describing our efforts to develop a long-term plan to fund adequately the air, water, solid waste and hazardous waste regulatory programs in the Department of Environmental Quality. This report contains strategies to provide the level of resources necessary to finance these programs that to protect our water quality and our lands, and allow the Commonwealth to maintain state primacy in environmental matters delegated by the federal government.

The protection of the Commonwealth's environment has a direct impact on our quality of life and on our economic development activities. Unfortunately, I believe the Commonwealth is at a critical point regarding our ability to sustain the health of our natural resources. Without aggressive steps to assure adequate and stable funding for our conservation programs, we cannot hope to maintain the environmental quality that Virginians have worked so hard to attain. I can only hope that our interest in maintaining this vitality enables us to continue this progress, despite the current financial situation.

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At the beginning of the year, I asked the Department of Environmental Quality to work with program stakeholders to develop strategies for each of the regulatory programs mentioned above that would provide adequate funding for DEQ to meet its environmental protection obligations and maintain state primacy in environmental matters delegated to Virginia by the federal government

For each program we are recommending both legislative and regulation changes to the fee structures to allocate costs based upon workload or size of the facility. For most programs we are recommending a combination of annual fees and application fees. We are also recommending that discounts be provided for facilities that demonstrate enhanced environmental performance.

The recommendations contained in this report will restructure current permit fees to provide a reliable and predictable revenue stream that fairly allocates program costs between different categories of regulated facilities. If adopted, these fees will provide the funds needed to meet the Commonwealth's environmental goals and to maintain the quality of our natural resources.

We will be seeking legislation to implement these recommendations in the 2004 Session. If you should have any suggestions or comments please do not hesitate to call me at 804/786-0044 or Kathy Frahm, Director of Policy for DEQ, at 804/698-4376.

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Introduction

The Virginia Department of Environmental Quality (DEQ) is responsible for protecting Virginia's environment. The DEQ is involved in monitoring and regulating activities related to air and water quality and waste management, and strives to reduce and prevent adverse environmental impacts.

In 2002 the General Assembly passed legislation (HB1257) authorizing the DEQ to triple permit application fees for waste and water permits. The tripled permit fees are authorized by statute through June 30, 2004. In addition to tripling permit fees, the General Assembly directed through item 376 of the 2002 Appropriations Act the Secretary of Natural Resources to work with stakeholders to develop a strategy to adequately fund the DEQ's water and waste regulatory programs. This directive required the Secretary of Natural Resources to develop a funding strategy for the programs that will protect the public and maintain state primacy in environmental matters delegated to Virginia by the federal government. The following items were required to be considered when developing the plan: the likelihood of the agency receiving additional general fund resources for environmental activities; workloads in the various environmental regulatory programs; the use of technological advances to cut costs; and changes to federal environmental policies and funding practices. An interim report was presented to the General Assembly from the Secretary of Natural Resources in December 2002 that provided information on program staffing and funding, identified funding needs, and described funding options used by other states. At the direction of the Secretary of Natural Resources, the DEQ has continued to work with stakeholders using the information contained in the interim report to identify funding strategies.

This report identifies funding principles, program efficiencies, and funding strategies developed based on discussions during technical advisory committee meetings. This report also contains the DEQ's recommendations for changing fee structures for the waste, air and water programs. The strategies presented in this report assume the level of general funding for the DEQ will remain constant at fiscal year 2004 levels, and that no additional general funds will be allocated to the agency to support permit programs. No increase in funding is anticipated to be received from the federal government to support permit programs.

Background

The DEQ staff held technical advisory committee meetings over the course of six months to discuss funding options for waste, air, and water programs. Lists of technical advisory committee members are included as Attachment 2. Discussions led to the development of principals concerning how programs should be funded. Some funding principals identified were specific to a group of stakeholders; however, some common funding principals were established for multiple programs. Common funding principals included the following:

- The DEQ should retain primacy for implementing environmental permit programs and adequate funding must be provided.

- Fees should be used only for the costs of the permit program.
- A combination of application fees and annual fees would more fairly allocate costs and provide a more reliable revenue stream for the DEQ.
- The agency and its stakeholders would benefit from a systemic evaluation of the efficiency, effectiveness and adequacy of program resources.
- Reductions in fee amounts should be provided for facilities that have environmental management systems or are otherwise ensuring enhanced environmental performance and requiring less oversight from the DEQ.

These funding principles were used by the DEQ staff to develop different funding options that were discussed during technical advisory committee meetings. This report contains strategies the DEQ is recommending implementing to obtain the needed revenue required to adequately fund individual permit programs. As discussed later in this report, the DEQ has accommodated significant budget cuts in recent years. If these recommendations are not adopted or other revenue provided, the agency will not be able to continue to implement these regulatory programs.

The DEQ's Funding and Program Costs

When the DEQ was formed in 1993, it had an appropriation of \$109,838,036 and an authorized employment level of 1041 full time employees. Since that time, the agency has implemented several new programs and mandates, including:

- a new permitting program to comply with Title V of the Clean Air Act;
- a new permitting program that covers 1,100+ concentrated animal feeding operations (CAFO) and concentrated poultry operations;
- a significantly expanded regulatory program for impacts to nontidal wetlands that will review permits for 800-900 projects in FY04;
- a program to develop Total Maximum Daily Loads and implementation plans for impaired waters;
- the Chesapeake Bay Tributary Strategies program;
- the Voluntary Remediation Program; and
- expansion of the federal stormwater permitting mandates to include 64 localities and 6000+ industrial and construction sites.

In FY04, the DEQ will have a budget totaling \$138,529,545 and a maximum employment

level of 864 FTEs. Of the amounts appropriated, 48% is passed through to other entities and 52%, or \$72,531,901 is available for implementation of the Department's programs. Between FY01 and FY04, general funds appropriated to the agency have decreased by \$27.8 Million.

The DEQ's funding comes from a mix of federal funds, special fees and taxes, state general funds, and permit fees. For FY04, 11% of the agency's budget is based on anticipated permit fee revenues and 24% of the agency's budget (or \$32,737,083) comes from state general fund revenues. The current funding needs for the DEQ's water and waste permit programs and as well as potential additional funding needs is listed in Table 1 below.

Table 1
DEQ Fiscal year 2004
Funding for the DEQ Permit Programs and Potential Additional Funding Needs

Program	Direct Program Costs	Additional Needs	Total Costs	State funds	%	Federal Funds	%	Revenue Needed	%
VPDES/VPA	\$9,825,000	\$0	\$9,825,000	\$4,732,615	48%	\$1,388,310	14%	\$3,704,075	38%
VWP	\$1,953,000	\$0	\$1,953,000	\$955,848	49%	\$93,582	5%	\$903,570	46%
Solid Waste	\$3,306,086	\$245,000	\$3,551,086	\$2,150,673	61%	\$0	0%	\$1,400,413	39%
Hazardous Waste	\$2,433,179	\$35,000	\$2,468,179	\$120,926	5%	\$1,824,884	74%	\$522,369	21%
Totals	\$17,517,265	\$280,000	\$17,797,265	\$7,960,062	44%	\$3,306,776	19%	\$6,530,427	37%

The additional needs listed for the solid waste program include the addition of full time employees to review groundwater monitoring reports from landfills, and to assess impacts to groundwater and oversee implementation of corrective measures to protect groundwater. Also an additional full time employee is needed to review financial assurance documentation for solid and hazardous waste facilities. The amounts listed in the revenue needed column for each permit program are the funding amounts that need to be obtained through new funding strategies and are the funding needs discussed during technical advisory committee meetings.

In addition to the state-wide budget cuts allocated to the DEQ, the 2002 Appropriations Act decreased funding for the implementation of the DEQ's water and waste permitting programs by \$4.6 million over the biennium. In an effort to fill this funding gap, the 2002 General Assembly authorized the Department to triple its application fees for solid waste, hazardous waste, and water program permits. The legislation provides, however, that these increases will sunset on June 30, 2004. If the recommendations presented in this report are not adopted or other revenue provided, the DEQ will be unable to continue implementation of these federally delegated programs.

Program Efficiencies

Over the past ten years, the DEQ has been required to implement additional programs including CAFO permitting, poultry permitting, stormwater management permitting program, Title V permitting and the nontidal wetlands program. These expanded programs have increased the number of facilities requiring permits and oversight, but over that same time period staffing has decreased. With the increase in the

number of regulated facilities, the DEQ has made changes in order to regulate these facilities more efficiently.

One major topic discussed with stakeholders during discussions about fee structures was program efficiency. This included identifying the steps the DEQ has taken to ensure that all of its resources are being utilized in the most efficient manner possible. Recent budget cuts have required the agency to eliminate 24 full time employees and 22 wage positions. With the reduction in staffing, the agency has investigated many ways to continue to operate existing and new federally and state mandated programs with less funding.

In an attempt to continue to provide services to an expanded number of facilities utilizing the current resources, the DEQ has taken steps to reduce costs. In some cases the DEQ has had to eliminate or reduce services provided by programs which include:

- reduction in staffing for Pollution Prevention, citizen monitoring, and solid waste inspectors;
- the closure of a satellite office;
- reductions in operational costs- including vehicles, copiers, supplies, training and travel;
- maintenance of a 8-10% vacancy rate;
- elimination of the overmatch of the State Revolving Loan Fund; and
- reduction in the number of inspections of solid waste facilities and waste water treatment plants.

The DEQ is also sensitive to the costs incurred by the regulated community to comply with Virginia's regulations. The DEQ is taking steps to reduce the costs incurred by the regulated community to comply with regulatory requirements. This includes the use of streamlined applications for Virginia Pollution Discharge Elimination System (VPDES) permit renewals, reduced inspections based on compliance histories of VPDES facilities, and online permit applications for 7 different general permits. In addition to these changes, the DEQ has reviewed areas in which technology could be used to operate the agency more efficiently and is working on a system to allow online payments and plans to pursue the development of a system to allow for the online submission of monitoring data. The DEQ will continue to explore the use of technologies that will reduce costs to the agency and the regulated community.

Hazardous Waste

The hazardous waste program regulates facilities that treat, store, dispose, or transport hazardous waste. It also regulates corrective action activities at sites where hazardous wastes have been released. The DEQ's hazardous waste program needs

\$2,468,179 annually to operate. Federal funds in the amount of \$1,824,884 annually are available to fund this federally delegated program. Currently \$120,932 is available from general funds to fund the hazardous waste permit program. This leaves an annual revenue gap of \$522,369. Currently only 40 permitted facilities and 410 transporters are subject to permit application fees. The approximately 4000 regulated facilities located in Virginia are not currently subject to fees.

Based upon work with the technical advisory committee, the DEQ recommends retaining permit action fees at the lower rates scheduled to go into effect on July 1, 2004 and assessing annual fees to permitted and interim status facilities, and large quantity generators. No fees for minor modifications to permits would need to be charged. Discounted annual fees would be available to facilities accepted into an environmental excellence program. The criteria for environmental excellence facilities to meet to obtain discounted annual fees would be established through regulation.

Annual fees and permit application fees would be established through the regulatory process based upon the workload analysis spreadsheet developed through stakeholder input as a guide. This spreadsheet is included as Appendix A. (A copy of the recommended statutory changes is included as Attachment 1. Statutory changes must be made before the recommended funding strategy can be implemented.)

Solid Waste

The solid waste program regulates over 470 facilities that treat, store, or dispose of solid waste. This includes solid waste landfills, transfer stations, incinerators, and other facilities that manage solid waste. In addition to permitting these types of facilities and monitoring their daily operations, the DEQ oversees the groundwater monitoring that occurs at landfills, and also supervises groundwater corrective action programs at sites that have impacted groundwater. The solid waste program needs \$3,551,086 annually to operate. No federal funds are available to support this program. Currently \$2,150,673 is available from general funds to fund the solid waste permit program. This leaves an annual revenue gap of \$1,400,413.

Based upon work with the technical advisory committee, the DEQ recommends retaining permit action fees at the lower rates scheduled to go into effect on July 1, 2004 and assessing annual oversight fees to solid waste facilities. Fees for minor modifications to permits would not be charged. Annual oversight fees for solid waste facilities would be based on the type of facility and the activities occurring at the facility. Annual oversight fees could be assessed at a flat rate, or a volume based fee. The decision on how annual fees will be calculated will be discussed further during the regulatory development process. Discounted annual fees would be available to facilities accepted into an environmental excellence program. The criteria for environmental excellence facilities to meet to obtain discounted annual fees would be established through regulation.

Annual fees and permit fees would be established through the regulatory process based upon the workload analysis spreadsheet developed through stakeholder input as a

guide. This spreadsheet is included as Appendix B. (A copy of the recommended statutory changes is included as Attachment 1. Statutory changes must be made before the recommended funding strategy can be implemented.)

Air

The air permit program oversees facilities that emit pollution to the atmosphere, including power plants, and manufacturing facilities. The air permit program currently does not assess application fees for the review of air permit applications for new sources; however, annual fees are assessed from existing facilities. In previous years, the DEQ has expended many man-hours processing air permits for major new sources in Virginia. On average it takes 1,000 staff hours to review a permit application for a major new source. In some cases, facilities have obtained air permits and have then chosen not to locate in Virginia. These facilities were issued permits without the state of Virginia recovering any of the costs expended to process the permit application, with existing facilities or general funds covering these costs. The DEQ wants the ability to charge permit application fees for the issuance of permits to major new air sources to recover a portion of the costs associated with the issuance of these permits. This change would allocate costs more fairly between program participants. Previously up to \$100,000 in staff time was expended to process complex permit applications, without the DEQ recovering any costs for providing this service. The fees to be charged would be similar to fees charged in other states and would be established through regulation. (A copy of the recommended statutory changes is included as Attachment 1. Statutory changes must be made before the recommended funding strategy can be implemented.)

Virginia Water Protection (VWP)

The VWP program permits 800-900 wetland impact sites and 7 water intakes per year. The VWP program needs \$1,953,000 annually to operate. Federal funds in the amount of \$93,582 are available to fund this program. Currently \$955,848 is available from general funds to fund the VWP program. This leaves an annual revenue gap of \$903,570.

Based upon work with the technical advisory committee, the DEQ recommends revising the VWP permit fee schedule to more directly correlate to the project size. A workload analysis spreadsheet has been included in Appendix C that describes the proposed fee schedule and outlines the projected revenue the DEQ anticipates will be generated through this funding strategy. Currently the statute contains maximum amounts that may be charged for the issuance of VWP permits. At the request of stakeholders, the maximum fees allowed to be charged would be retained in statute. The DEQ recommends adjusting the amounts listed in statute annually for inflation using the Consumer Price Index. Regulatory action would be required to amend the fees actually charged. (A copy of the recommended statutory changes is included as Attachment 1. Statutory changes must be made before the recommended funding strategy can be implemented.)

Virginia Pollution Discharge Elimination System (VPDES) and Virginia Pollution Abatement (VPA)

The VPDES program regulates facilities discharging to state waters. This includes 147 large or “Major” municipal and industrial wastewater treatment plants and 1,060 minor municipal and industrial wastewater treatment plants. The VPA program regulates 1,100 concentrated animal feeding operations, and 40 sludge application operations. The VPDES and VPA programs need \$9,825,000 annually to operate. Federal funds in the amount of \$1,388,310 are available to fund these programs. Currently \$4,732,615 is available from general funds to fund the VPDES and VPA programs. This leaves an annual revenue gap of \$3,704,075.

Based upon work with the technical advisory committee, the DEQ recommends collecting annual fees from individual permit holders to fund the program. Permit application fees would be assessed at the lower rates scheduled to go into effect on July 1, 2004 for permits subject to annual fees. Permit application fees for coverage under general permits would be reduced from the current rates. Annual fees would be based on workload and would include additional charges for facilities that require oversight and review. A workload analysis spreadsheet has been included in Appendix D that describes the fee schedule and outlines the projected revenue the DEQ anticipates will be generated through this funding strategy.

Statutory changes need to be made to allow the DEQ to charge annual fees. Maximum application fees and annual fees would be listed in statute for each of the different types of permits; however, the DEQ recommends including in the statute a provision to allow for the maximum fees included in the statute to be adjusted annually for inflation using the Consumer Price Index. Regulatory action would be required to amend the fees actually charged. (A copy of the recommended statutory changes is included as Attachment 1. Statutory changes must be made before the recommended funding strategy can be implemented.)

Implementation of the Fee Strategies

As mentioned previously, statutory changes must be made before the DEQ can implement the recommended funding strategies through regulation. The recommended strategies must be implemented in July 2004, so the DEQ is seeking the authority to adopt revised fee schedules for the waste and water programs using an expedited process. Since the normal regulatory process takes on average between eighteen and twenty-four months, the DEQ would not be able to implement a revised fee structure until 2006. This would Without the ability to adopt revised fee schedules using an expedited process, the DEQ would be unable to adequately fund the waste and water permit programs until after completing the regulatory development process in 2006.

Conclusion

Through working with technical advisory committee members, the DEQ has identified stable funding strategies to support the waste and water permitting programs, as well as statutory changes required to facilitate these changes. These strategies, once implemented, will create a stable funding source to support these programs, and will

allow the DEQ to protect Virginia's environment while maintaining state primacy in environmental programs delegated to Virginia.

Some stakeholders believe additional general funds should be used to support the permit programs. They believe that the services they provide under the permitted activities provide broad public benefit. Some argue that there are competing priorities for available general funds to fund non-permit programs such as Water Supply Planning, TMDL implementation, point source water quality improvement and development and implementation of Chesapeake Bay Tributary Strategies that should receive support from general funds instead of permit programs. Because of the competing priorities for general funds in natural resources and in other areas, these recommendations assume that no additional general funds will be provided for this program.

These regulatory programs are essential to the protection of natural resources and the quality of life. If the recommendations included in this report are not adopted or other revenue provided, the agency will not be able to continue to implement these state and federally mandated programs. If that happens, difficult decisions will be made about which programs will not be implemented or will be turned over to EPA for administration. If this happens, Virginia would lose significant portions of its policy-making authority.

Appendix A- Hazardous Waste Funding Strategy

The DEQ recommends retaining application fees and assessing annual fees. Annual fees would be paid by all permitted and interim status facilities (excluding transporter permits), and all large quantity generators. Permit action fees would be the lower rates scheduled to go into effect on July 1, 2004 and would be charged for permit issuance and modifications, excluding minor modifications. These permits are renewed every ten years. Annual fees would be reduced for facilities accepted into the DEQ's environmental excellence program. The fees listed in this appendix are currently not effective, but would be established through the regulatory process if the legislation included in this report is adopted. Additional funding of \$522,369 is needed to continue to administer the program. The strategy listed below provides a stable funding source for the hazardous waste program.

Hazardous Waste Fees

Facility Category	# Facilities	# actions / yr	Permit Application Fee	Annual fees	Estimated Revenues
Large Quantity Gen. (annual fee)	315			\$1,000	\$315,000
Small Quantity Gen.	4,342				
Transporters	410				
Terminals in VA	102	12	\$140		\$1,680
Others	308	25	\$210		\$5,250
Enforcement orders/SNC					
Treatment/Storage/Disposal					
Permitted (annual fee)	40			\$2,800	\$112,000
Interim status (annual fee)	6			\$2,800	\$16,800
New/renewal Treatment/Storage/Disposal facility permit - base fee		3	\$16,900		\$50,700
New/renewal Land Based Unit		1	\$39,280		\$39,280
New/renewal Boiler or Industrial Furnace		0	\$25,200		\$0
Permit Modifications					
Base Fee		10	\$90		\$900
New Wastes		0	\$2,310		\$0
Major Mod Land based unit		0	\$45,070		\$0
Major Mod Boiler or Industrial Furnace		0	\$33,790		\$0
Other major mod		0	\$14,050		\$0
Substantive Change		3	\$2,310		\$6,930
TOTAL					\$548,540

Appendix B- Solid Waste Funding Strategy

The DEQ recommends retaining permit application fees and assessing annual oversight fees. Two different options are available to the DEQ to calculate annual oversight fees. Volume based annual oversight fees may be assessed through the adoption of a tiered scale or calculated on a per ton basis based on the amount of waste handled at a facility. Both options have been included in this appendix. The fees listed in this appendix are currently not effective, but would be established through the regulatory process if the legislation included in this report is adopted. Additional funding of \$1,400,413 is needed to continue to administer the program. The strategy listed below provides a stable funding source for the solid waste program.

Solid Waste Permit Action Fees	# applications or actions	Permit Action fee	Estimated Permit Action fee revenue
Landfill			
New - Part A	0	\$4,180	\$0
New or Exp. Part B	2	\$18,680	\$37,360
Mod - Part A	0	\$4,180	\$0
Modifications and amendments	21	\$390 to \$22,860	\$26,980
Composting			
New Permit- Category I	0**	\$6,850	\$0
New Permit- Category I,II	0**	\$8,440	\$0
New Permit- Category I,II,III	0**	\$10,550	\$0
New Permit- Category I,II,III, IV	0**	\$12,670	\$0
Mod VI	0**	\$3,660	\$0
RMW			
New	0**	\$4,310	\$0
Modification	0**	\$390	\$0
Materials Recovery			
New	0**	\$4,310	\$0
Modification	0**		\$0
Incinerator / Energy Recovery			
New	0**	\$5,880	\$0
Modification	0**		\$0
Transfer Stations	0**	\$4,310	\$0
PBR's	23	\$390	\$8,970
Waste Piles	0	\$0	\$0
Total permit action fee revenue			\$73,310

** With the advent of PBR's, facilities in these categories opt to get a PBR instead of a full permit. A fee will be charged for PBR's beginning 7/1/04.

Annual fees -(based on a tiered scale of waste managed at a facility- to be collected in addition to permit action fees) Option 1

Facility Category				
Landfills	Tons managed per year	# Facilities	Annual fee per facility	Revenue
MSW	Over 500,000	10	\$60,000	\$600,000
MSW	100-500,000	13	\$30,000	\$390,000
MSW	50 – 100,000	9	\$15,000	\$135,000
MSW	25 - 50,000	12	\$8,000	\$96,000
MSW	10 - 25,000	14	\$4,000	\$56,000
MSW	< 10,000	7	\$2,000	\$14,000
Industrial – commercial	>1,000	2	\$8,000	\$16,000
Industrial – captive	<1000	28	\$2,000	\$56,000
CDD		19	\$4,000	\$76,000
Other types of facilities				
Composting		12	\$500	\$6,000
RMW		23	\$1,000	\$23,000
Materials Recovery		33	\$2,000	\$66,000
Incinerators / Energy Recovery		10	\$3,000	\$30,000
Transfer Stations		58	\$2,000	\$116,000
Facilities in Post Closure Care		221	\$500	\$110,500
Total Annual Fee Revenue				\$1,790,500

Annual fees (based on actual amount of waste landfilled at MSW landfill, CDD landfill, non-captive industrial landfill, or amount incinerated at incinerator, or energy recovery facility- to be collected in addition to permit action fees) Option 2

Landfills	Tons managed per year	2002 Volume (tons)	# Facilities	Fee per ton	Estimated revenue
MSW	Over 100,000	11,484,898	23	\$0.09	\$1,033,641
MSW	50 – 100,000	564,728	9	\$0.09	\$50,826
MSW	25 - 50,000	468,873	12	\$0.09	\$42,199
MSW	10 - 25,000	246,283	14	\$0.09	\$22,165
MSW	< 10,000	28,766	7	\$0.09	\$2,589
Industrial – com	>1,000	237,177	2	\$0.05	\$11,859
CDD		2,662,418	19	\$0.05	\$133,121
Incineration		2,155,696	10	\$0.05	\$107,785
Other facilities				Annual Oversight Fees-	
				per facility	
Composting			12	\$500	\$6,000
RMW			23	\$1,000	\$23,000
Materials Recovery			33	\$2,000	\$66,000
Transfer Stations			58	\$2,000	\$116,000
Facilities in Post Closure Care			221	\$500	\$110,500
Industrial – captive Lfs.			28	\$3,000	\$84,000
Waste Piles			0	\$500	\$0
Totals					\$1,882,685

Appendix C- Virginia Water Protection Program Funding Strategy

Permit application fees are the only fees proposed for this program. Fees are based on the size of the impact. The DEQ recommends retaining the current fee structure for impacts less than 2 acres, and increasing the fees for projects larger than two acres. The fees listed in this appendix are currently not effective, but would be established through the regulatory process if the legislation included in this report is adopted. Additional funding of \$903,570 is needed to continue to administer the program. The strategy listed below provides a stable funding source for the VWP waste program.

VWP FEES

Project Size or Category	# apps per year	Estimated Acreage	Application fees	Estimated revenue
<1/10 acre	370		\$0	\$0
1/10 to 1/2 acre	100		\$600	\$60,000
1/2 - 1 acre	25	25	\$1,200	\$30,000
1-2 acres (base fee)	20	20	\$1,200	\$24,000
each additional acre over 2		275	\$2,200	\$605,000
MIF < 4 MGD	3		\$12,000	\$36,000
MIF > 4 MGD	5		\$24,000	\$120,000
Reservoir	1		\$35,000	\$35,000
Total estimated revenue				\$910,000

Appendix D- Virginia Pollution Discharge and Elimination System (VPDES) and Virginia Pollution Abatement (VPA) Program Funding Strategies

The DEQ recommends assessing annual fees for program participants while retaining permit application fees. Permit application fees will be returned to the pre-tripled rate for permitted facilities subject to annual fees. The fees listed in this appendix are currently not effective, but would be established through the regulatory process if the legislation included in this report is adopted. Additional funding of \$3,704,075 is needed to continue to administer the program. The strategy listed below provides a stable funding source for the VPDES and VPA programs.

VPDES / VPA Fee Base Information

Facility Category	# of facilities	# apps/ year*	Fees	Estimated revenue
Major Industrial- app fee		9	\$8,000	\$72,000
<i>ann fee</i>	49		\$4,500	\$220,500
Minor Industrial				
Min Ind. – std application fee		52	\$2,200	\$114,400
Min Ind – nonstd application fee		35	\$3,400	\$119,000
<i>Min Ind- std.- ann fee</i>	262		\$1,300	\$340,600
<i>Min Ind- nonstd.- ann fee</i>	188		\$2,000	\$376,000
Major Municipal- app fee		19	\$7,100	\$134,900
<i>1 - 2 MGD- ann fee</i>	36		\$3,700	\$133,200
<i>2-10 MGD- ann fee</i>	34		\$4,000	\$136,000
<i>>10 MGD- ann fee</i>	29		\$4,300	\$124,700
Minor Municipal				
<1000 GPD- app fee		1.6	\$1,400	\$2,240
1000-10,000 GPD- app fee		36	\$1,800	\$64,800
10,001 - 100,000 GPD- app fee		47	\$2,000	\$94,000
>100,001 GPD- app fee		39	\$2,500	\$97,500
<i>Minor municipal- ann fee</i>	606		\$1,400	\$848,400
Stormwater Indust. GP	1380	276	\$500	\$138,000
Single Family Home GP	878	878	\$0	\$0
Other GPs	466	93	\$500	\$46,500
VPA				
<i>VPA ANNUAL FEE</i>	130		\$900	\$117,000
VPA – Industrial <10- app fee		1	\$3,500	\$3,500
VPA – Industrial >10- app fee		21	\$3,500	\$73,500
VPA – Municipal- app fee		2	\$4,500	\$9,000
CAFO/Poultry GP	1107		\$0	\$0
Pretreatment Program	80		\$1,000	\$80,000
Toxics Mgmt Program	321		\$1,000	\$321,000
>5 Outfalls	74		\$1,000	\$74,000
Total estimated revenue				\$3,740,740

*some numbers appearing in this column are the average number of applications received per year.

Attachment 1- Draft Environmental Permit Fee Legislation

1
2 *A BILL to amend and reenact §§ 10.1-1322, 10.1-1402, 10.1-1402.1, and 62.1-44.15:6 of*
3 *the Code of Virginia and to amend the Code of Virginia by adding a section numbered*
4 *62.1-44.15:6.1 relating to environmental permit fees.*

5
6 **Be it enacted by the General Assembly of Virginia**

7
8 **1. That §§ 10.1-1322, 10.1-1402, 10.1-1402.1, and 62.1-44.15:6 of the Code of**
9 **Virginia are amended and reenacted and that the Code of Virginia is amended and**
10 **reenacted by adding a new section number §62.1-44.15:6.1 as follows:**

11
12 **§ 10.1-1322. Permits.**

13 A. Pursuant to regulations adopted by the Board, permits may be issued, amended,
14 revoked or terminated and reissued by the Department and may be enforced under the
15 provisions of this chapter in the same manner as regulations and orders. Failure to
16 comply with any condition of a permit shall be considered a violation of this chapter and
17 investigations and enforcement actions may be pursued in the same manner as is done
18 with regulations and orders of the Board under the provisions of this chapter.

19 B. The Board by regulation may prescribe and provide for the payment and collection of
20 annual permit program fees for air pollution sources. Annual permit program fees shall
21 not be collected until (i) the federal Environmental Protection Agency approves the
22 Board's operating permit program established pursuant to Title V of the federal Clean Air
23 Act or (ii) the Governor determines that such fees are needed earlier to maintain primacy
24 over the program. The annual fees shall be based on the actual emissions (as calculated or
25 estimated) of each regulated pollutant, as defined in § 502 of the federal Clean Air Act, in
26 tons per year, not to exceed 4,000 tons per year of each pollutant for each source. The
27 annual permit program fees shall not exceed a base year amount of twenty-five dollars
28 per ton using 1990 as the base year, and shall be adjusted annually by the Consumer Price
29 Index as described in § 502 of the federal Clean Air Act. Permit program fees for air
30 pollution sources who receive state operating permits in lieu of Title V operating permits
31 shall be paid in the first year and thereafter shall be paid biennially. The fees shall
32 approximate the direct and indirect costs of administering and enforcing the permit
33 program, and of administering the small business stationary source technical and
34 environmental compliance assistance program as required by the federal Clean Air Act.

1 The Board may also prescribe by regulation permit application fees for new major
2 stationary sources. The permit application fee amounts shall reflect the time required to
3 review applications for permits from new air pollution sources and may be adjusted
4 periodically by the Consumer Price Index using 2004 as the base year. The fees shall be
5 exempt from statewide indirect costs charged and collected by the Department of
6 Accounts.

7 C. When adopting regulations for permit program fees for air pollution sources, the
8 Board shall take into account the permit fees charged in neighboring states and the
9 importance of not placing existing or prospective industry in the Commonwealth at a
10 competitive disadvantage.

11 D. On January 1, 1993, and December 1 of every even-numbered year thereafter, the
12 Department shall make an evaluation of the implementation of the permit fee program
13 and provide this evaluation in writing to the Senate Committee on Agriculture,
14 Conservation and Natural Resources, the Senate Committee on Finance, the House
15 Committee on Appropriations, the House Committee on Agriculture, Chesapeake
16 ~~Conservation~~ and Natural Resources and the House Committee on Finance. This
17 evaluation shall include a report on the total fees collected, the amount of general funds
18 allocated to the Department, the Department's use of the fees and the general funds, the
19 number of permit applications received, the number of permits issued, the progress in
20 eliminating permit backlogs, and the timeliness of permit processing.

21 E. To the extent allowed by federal law and regulations, priority for utilization of permit
22 fees shall be given to cover the costs of processing permit applications in order to more
23 efficiently issue permits.

24 F. Fees collected pursuant to this section shall not supplant or reduce in any way the
25 general fund appropriation to the Department.

26 G. The permit fees shall apply to permit programs in existence on July 1, 1992, any
27 additional permit programs which may be required by the federal government and
28 administered by the Board, or any new permit program required by the Code of Virginia.

29 H. The permit program fee regulations promulgated pursuant to this section shall not
30 become effective until July 1, 1993.

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§ 10.1-1402. Powers and duties of the Board.

The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.
2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other state and federal agencies for the purpose of implementing this chapter and the federal acts.
3. Provide technical assistance and advice concerning all aspects of waste management.
4. Develop and keep current state waste management plans and provide technical assistance, advice and other aid for the development and implementation of local and regional waste management plans.
5. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.
6. Collect data necessary to conduct the state waste programs, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.
7. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal statute or regulation.
8. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste that it deems to be hazardous.
9. Consult and coordinate with the heads of appropriate state and federal agencies, independent regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.
10. Apply for federal funds and transmit such funds to appropriate persons.
11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and

1 the federal acts, except that a description of provisions of any proposed regulation which
2 are more restrictive than applicable federal requirements, together with the reason why
3 the more restrictive provisions are needed, shall be provided to the standing committee of
4 each house of the General Assembly to which matters relating to the content of the
5 regulation are most properly referable.

6 12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of
7 eminent domain as provided in Chapter 2 (§ [25.1-200](#) et seq.) of Title 25.1, grant, gift,
8 devise or otherwise, the fee simple title to any lands, selected in the discretion of the
9 Board as constituting necessary and appropriate sites to be used for the management of
10 hazardous waste as defined in this chapter, including lands adjacent to the site as the
11 Board may deem necessary or suitable for restricted areas. In all instances the Board shall
12 dedicate lands so acquired in perpetuity to such purposes. In its selection of a site
13 pursuant to this subdivision, the Board shall consider the appropriateness of any state-
14 owned property for a disposal site in accordance with the criteria for selection of a
15 hazardous waste management site.

16 13. Assume responsibility for the perpetual custody and maintenance of any hazardous
17 waste management facilities.

18 14. Collect, from any person operating or using a hazardous waste management facility,
19 fees sufficient to finance such perpetual custody and maintenance due to that facility as
20 may be necessary. All fees received by the Board pursuant to this subdivision shall be
21 used exclusively to satisfy the responsibilities assumed by the Board for the perpetual
22 custody and maintenance of hazardous waste management facilities.

23 15. Collect, from any person operating or proposing to operate a hazardous waste
24 treatment, storage or disposal facility, large quantity generator of hazardous waste or any
25 person transporting hazardous waste, ~~permit application~~ fees sufficient to defray only
26 costs related to the issuance of permits and assuring compliance as required in this
27 chapter and in accordance with Board regulations, but such fees shall not exceed costs
28 necessary to implement this subdivision . All fees received by the Board pursuant to this
29 subdivision shall be used exclusively for the hazardous waste management program set
30 forth herein.

- 1 16. Collect, from any person operating or proposing to operate a sanitary landfill or other
2 facility for the disposal, treatment or storage of nonhazardous solid waste, permit
3 ~~application~~ fees sufficient to defray only costs related to the issuance of permits, for the
4 review and assessment of ground water monitoring, and for inspections and enforcement
5 actions necessary to assure compliance with such permits as required in this chapter in
6 accordance with Board regulations, but such fees shall not exceed costs necessary to
7 implement the provisions of this subdivision ~~issue such permits~~. All such fees received
8 by the Board shall be used exclusively for the solid waste management program set forth
9 herein. The Board shall establish a schedule of fees by regulation as provided in §§ [10.1-](#)
10 [1402.1](#), [10.1-1402.2](#) and [10.1-1402.3](#).
- 11 17. Issue, deny, amend and revoke certification of site suitability for hazardous waste
12 facilities in accordance with this chapter.
- 13 18. Make separate orders and regulations it deems necessary to meet any emergency to
14 protect public health, natural resources and the environment from the release or imminent
15 threat of release of waste.
- 16 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites
17 where solid or hazardous waste, or other substances within the jurisdiction of the Board,
18 have been improperly managed and to institute legal proceedings to recover the costs of
19 the containment or clean-up activities from the responsible parties.
- 20 20. Collect, hold, manage and disburse funds received for violations of solid and
21 hazardous waste laws and regulations or court orders pertaining thereto pursuant to
22 subdivision 19 of this section for the purpose of responding to solid or hazardous waste
23 incidents and clean-up of sites that have been improperly managed, including sites
24 eligible for a joint federal and state remedial project under the federal Comprehensive
25 Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510,
26 as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law
27 99-499, and for investigations to identify parties responsible for such mismanagement.
- 28 21. Abate hazards and nuisances dangerous to public health, safety or the environment,
29 both emergency and otherwise, created by the improper disposal, treatment, storage,
30 transportation or management of substances within the jurisdiction of the Board.

1 22. Notwithstanding any other provision of law to the contrary, regulate the management
2 of mixed radioactive waste.

3
4 **§ 10.1-1402.1. Permit fee regulations.**

5 Regulations promulgated by the Board which establish a permit fee assessment and
6 collection system pursuant to subdivision 15 and 16 of § 10.1-1402 shall be governed by
7 the following:

8 1. Permit fees charged an applicant shall reflect the average time and complexity of
9 processing a permit in each of the various categories of permits and permit actions. No
10 fees shall be charged for minor modifications or minor amendments to such permits.

11 Annual fees shall reflect the time and complexity of inspecting and monitoring the
12 different categories of facilities.

13 2. When promulgating regulations establishing ~~permit~~ fees, the Board shall take into
14 account the permit fees charged in neighboring states and the importance of not placing
15 existing or prospective industries in the Commonwealth at a competitive disadvantage.

16 3. On January 1, 1993, and January 1 of every even-numbered year thereafter, the Board
17 shall evaluate the implementation of the permit fee program and provide this evaluation
18 in writing to the Senate Committees on Agriculture, Conservation and Natural Resources,
19 and Finance; and the House Committees on Agriculture, Chesapeake and Natural
20 Resources, and Finance. This evaluation shall include a report on the total fees collected,
21 the amount of general funds allocated to the Department, the Department's use of the fees
22 and the general funds, the number of permit applications received, the number of permits
23 issued, the progress in eliminating permit backlogs, and the timeliness of permit
24 processing.

25 4. Fees collected pursuant to subdivision 15 or 16 of § 10.1-1402 shall not supplant or
26 reduce in any way the general fund appropriation to the Board.

27 5. These permit fees shall be collected in order to recover a portion of the agency's costs
28 associated with the processing of an application to issue, reissue, amend or modify
29 permits which the Board has authority to issue for the purpose of more efficiently and
30 expeditiously processing permits, the costs associated with the review and assessment of
31 ground water monitoring, and the costs associated with inspections and enforcement

1 actions necessary to assure compliance. Fee amounts may be adjusted periodically by
2 the Consumer Price Index using 2004 as the base year. If the report completed pursuant
3 to this section demonstrates permit fees collected under the authority of ' 10.1-1402
4 exceed the program needs by 20% and indicate that this exceedance will continue, the
5 Board shall initiate regulatory action to adjust the fee schedule. The fees shall be exempt
6 from statewide indirect costs charged and collected by the Department of Accounts.
7 The Board shall establish criteria by regulation to provide for reductions in the annual fee
8 amount assessed for facilities based upon acceptance into the Department's programs for
9 environmental excellence.

10 6. The regulation shall include provisions allowing the director to waive or reduce any
11 volume based fees assessed to solid waste facilities during a state of emergency.

12 7. The adoption of such permit fee regulations shall be exempt from Article 2 of Chapter
13 40 of Title 2.2 (The Administrative Process Act). The Board shall provide notice
14 and an opportunity for public comment prior to the adoption or amendment of any fee
15 schedule.

16
17 **§ 62.1-44.15:6. (Effective until July 1, 2004) Permit fee regulations.**

18 A. The Board shall promulgate regulations establishing a fee assessment and collection
19 system to recover a portion of the State Water Control Board's, the Department of Game
20 and Inland Fisheries' and the Department of Conservation and Recreation's direct and
21 indirect costs associated with the processing of an application to issue, reissue, amend or
22 modify any permit or certificate, which the Board has authority to issue under this
23 chapter and Chapters 24 (§ [62.1-242](#) et seq.) and 25 (§ [62.1-254](#) et seq.) of this title, from
24 the applicant for such permit or certificate for the purpose of more efficiently and
25 expeditiously processing permits and assuring compliance with such permits. The fees
26 shall be exempt from statewide indirect costs charged and collected by the Department of
27 Accounts. The Board shall have no authority to charge such fees where the authority to
28 issue such permits has been delegated to another agency that imposes permit fees.

29 B. Permit fees charged an applicant shall reflect the average time and complexity of
30 processing a permit in each of the various categories of permits and permit actions.

31 However, notwithstanding any other provision of law, in no instance shall the Board

1 charge a fee for a permit pertaining to a farming operation engaged in production for
2 market or for a permit pertaining to maintenance dredging for federal navigation channels
3 or other Corps of Engineers sponsored dredging projects, and in no instance shall the
4 Board exceed the following amounts for the processing of each type of permit/certificate
5 category:

6	Type of Permit/Certificate Category	Maximum Amount
7	1. Virginia Pollutant Discharge Elimination System	
8	Major	\$24,000
9	Minor	\$10,500
10	General	\$ 1,200
11	2. Virginia Pollution Abatement	
12	Industrial/Wastewater	15,000
13	Industrial/Sludge	\$ 7,500
14	Municipal/Wastewater	\$15,000
15	Municipal/Sludge	\$ 7,500
16	Other	\$ 750
17	3. 401 Certification/Virginia Water Protection	
18	Individual	\$9,000
19	General	\$ 1,200
20	4. Ground Water Withdrawal	\$ 6,000
21	5. Surface Water Withdrawal	\$12,000

22
23 When modifications in these permits or certificates have been initiated by the Board, the
24 fee for the modified permit or certificate shall not exceed seventy-five percent of the
25 maximum amount established by this subsection. Payments for the costs of processing
26 applications by the Department of Game and Inland Fisheries and the Department of
27 Conservation and Recreation shall be limited to the lesser of twenty-five percent of the
28 fees prescribed by regulation or \$100 per permit or certificate and shall further be limited
29 to those permits or certificates these agencies are required to review by the Code of
30 Virginia.

1 C. When promulgating regulations establishing permit fees, the Board shall take into
2 account the permit fees charged in neighboring states and the importance of not placing
3 existing or prospective industries in the Commonwealth at a competitive disadvantage.

4 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the
5 Board shall make a report on the implementation of the water permit program to the
6 Senate Committee on Agriculture, Conservation and Natural Resources, the Senate
7 Committee on Finance, the House Committee on Appropriations, the House Committee
8 on Agriculture, Chesapeake and Natural Resources and the House Committee on
9 Finance. The report shall include the following: (i) the total costs, both direct and
10 indirect, including the costs of overhead, water quality planning, water quality
11 assessment, operations coordination, and surface water and ground water investigations,
12 (ii) the total fees collected by permit category, (iii) the amount of general funds allocated
13 to the Board, (iv) the amount of federal funds received, (v) the Board's use of the fees, the
14 general funds, and the federal funds, (vi) the number of permit applications received by
15 category, (vii) the number of permits issued by category, (viii) the progress in eliminating
16 permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and indirect
17 costs to neighboring states of administering their water permit programs, including what
18 activities each state categorizes as direct and indirect costs, and the fees charged to the
19 permit holders and applicants.

20 E. Fees collected pursuant to this section shall not supplant or reduce in any way the
21 general fund appropriation to the Board.

22 F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any
23 additional permits that may be required by the federal government and administered by
24 the Board, or any new permit required pursuant to any law of the Commonwealth.

25 G. The Board is authorized to promulgate regulations establishing a schedule of reduced
26 permit fees for facilities that have established a record of compliance with the terms and
27 requirements of their permits.

28
29 **§ 62.1-44.15:6. (Effective July 1, 2004) Virginia Pollutant Discharge Elimination**
30 **System and Virginia Pollutant Abatement Permit fee regulations.**

1 A. The Board shall promulgate regulations establishing a fee assessment and collection
 2 system to recover a portion of the State Water Control Board's, ~~the Department of Game~~
 3 ~~and Inland Fisheries' and the Department of Conservation and Recreation's~~ direct and
 4 indirect costs associated with the processing of an application to issue, reissue, amend or
 5 modify any Virginia Pollutant Discharge Elimination System or Virginia Pollution
 6 Abatement permit or certificate, which the Board has authority to issue under this chapter
 7 ~~and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.)~~ of this title, from the
 8 applicant for such permit or certificate for the purpose of more efficiently and
 9 expeditiously processing permits and assuring compliance with such permits. The fees
 10 shall be exempt from statewide indirect costs charged and collected by the Department of
 11 Accounts. The Board shall have no authority to charge such fees where the authority to
 12 issue such permits has been delegated to another agency which imposes permit fees.

13 B. Permit fees charged an applicant shall reflect the average time and complexity of
 14 processing a permit in each of the various categories of permits and permit actions.
 15 However, notwithstanding any other provision of law, in no instance shall the Board
 16 charge a fee for a permit pertaining to a farming operation engaged in production for
 17 market or for a permit pertaining to maintenance dredging for federal navigation channels
 18 or other Corps of Engineers sponsored dredging projects, and in no instance shall the
 19 Board exceed the following amounts for the processing of each type of permit/certificate
 20 category:

21	Type of Permit/Certificate Category	Maximum Amount
22	1. Virginia Pollutant Discharge Elimination System	
23	Major	\$ 8,000
24	Minor	\$ 3,500
25	General	\$ 400 <u>500</u>
26	2. Virginia Pollution Abatement	
27	Industrial/Wastewater	\$ 5,000
28	Industrial/Sludge	\$ 2,500
29	Municipal/Wastewater	\$ 5,000
30	Municipal/Sludge	\$ 2,500
31	Other	\$ 250

1	3. 401 Certification/Virginia Water Protection	
2	Individual	\$ 3,000
3	General	\$ 400
4	Waiver	\$ 400
5	4. Ground Water Withdrawal	\$ 2,000 6,000
6	5. Surface Water Withdrawal	\$ 4,000 12,000

7

8 These maximum amounts on permit fees shall be adjusted annually based upon changes
9 in the Consumer Price Index using 2004 as the base year. Amendments to the fee
10 schedule regulation that are based on changes to the Consumer Price Index shall be
11 exempt from Article 2 of Chapter 40 of Title 2.2. The Board shall provide notice and an
12 opportunity for public comment prior to the adoption or amendment of any fee schedule.
13 When modifications in these permits or certificates have been initiated by the Board, the
14 fee for the modified permit or certificate shall not exceed seventy-five percent of the
15 maximum amount established by this subsection. ~~Payments for the costs of processing~~
16 ~~applications by the Department of Game and Inland Fisheries and the Department of~~
17 ~~Conservation and Recreation shall be limited to the lesser of twenty five percent of the~~
18 ~~fees prescribed by regulation or \$100 per permit or certificate and shall further be limited~~
19 ~~to those permits or certificates these agencies are required to review by the Code of~~
20 ~~Virginia.~~

21 B1. Annual fees charged the permit holder shall reflect the average time and complexity
22 of monitoring compliance with permit conditions in each of the various categories of
23 permits, but in no instance shall the fees exceed the following amounts:

24	<u>Type of Permit/Certificate Category</u>	<u>Maximum Amount</u>
25	<u>1. Virginia Pollutant Discharge Elimination System</u>	
26	Major	\$ 4,500
27	Minor	\$ 2,000
28	<u>2. Virginia Pollution Abatement</u>	
29		\$900

30 No annual fees shall be assessed from facilities operating under a general permit.
31 Additional fees, not to exceed \$1,000 per year for each of the following activities, shall

1 be assessed from facilities in the toxics management program, facilities that have more
2 than 5 process wastewater discharge outfalls, and wastewater treatment plants that
3 receive pollutants from industrial users for final treatment and discharge as part of a
4 pretreatment program. These maximum amounts on permit fees shall be adjusted
5 annually based upon changes in the Consumer Price Index using 2004 as the base year.
6 Amendments to the fee schedule regulation that are based on changes to the Consumer
7 Price Index shall be exempt from Article 2 of Chapter 40 of Title 2.2. The Board shall
8 provide notice and an opportunity for public comment prior to the adoption or
9 amendment of any fee schedule.

10
11 C. When promulgating regulations establishing permit fees, the Board shall take into
12 account the permit fees charged in neighboring states and the importance of not placing
13 existing or prospective industries in the Commonwealth at a competitive disadvantage.

14 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the
15 Board shall make a report on the implementation of the water permit program to the
16 Senate Committee on Agriculture, Conservation and Natural Resources, the Senate
17 Committee on Finance, the House Committee on Appropriations, the House Committee
18 on ~~Conservation and~~ Agriculture, Chesapeake and Natural Resources and the House
19 Committee on Finance. The report shall include the following: (i) the total costs, both
20 direct and indirect, including the costs of overhead, water quality planning, water quality
21 assessment, operations coordination, and surface water and ground water investigations,
22 (ii) the total fees collected by permit category, (iii) the amount of general funds allocated
23 to the Board, (iv) the amount of federal funds received, (v) the Board's use of the fees, the
24 general funds, and the federal funds, (vi) the number of permit applications received by
25 category, (vii) the number of permits issued by category, (viii) the progress in eliminating
26 permit backlogs, (ix) the timeliness of permit processing, and (x) ~~the direct and indirect~~
27 ~~costs to neighboring states of administering their water permit programs, including what~~
28 ~~activities each state categorizes as direct and indirect costs, and the fees charged to the~~
29 permit holders and applicants in neighboring states.

30 ~~In addition, the 1998 report shall include an analysis and estimate of the annual costs to~~
31 ~~permit holders and permit applicants if the direct and indirect costs of administering the~~

1 ~~water permit program were to be apportioned in a manner that would require the permit~~
2 ~~holders and applicants to pay fifty, seventy five, and one hundred percent of the~~
3 ~~program's total cost through annual permit fees. The Department shall propose how the~~
4 ~~following factors could be used to adjust individual permit fees: (i) the average time and~~
5 ~~complexity of processing a permit in each of the various categories of permits and permit~~
6 ~~actions, (ii) the permit holder's compliance history, (iii) whether the permit holder has~~
7 ~~implemented pollution prevention plans, (iv) whether the applicant or permit holder has~~
8 ~~used innovative technology and (v) the financial hardship of the applicant or permit~~
9 ~~holder.~~

10 E. Fees collected pursuant to this section shall not supplant or reduce in any way the
11 general fund appropriation to the Board.

12 F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any
13 additional permits which may be required by the federal government and administered by
14 the Board, or any new permit required pursuant to any law of the Commonwealth.

15 G. The Board is authorized to promulgate regulations establishing a schedule of reduced
16 permit fees for facilities which have established a record of compliance with the terms
17 and requirements of their permits. The Board shall establish criteria to provide
18 reductions to annual fee amounts based upon acceptance to the Department's programs
19 for environmental excellence.

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21
22 **§ 62.1-44.15:6.1 Other Permit fee regulations.**

23 A. The Board shall promulgate regulations establishing a permit application fee
24 assessment and collection system to recover a portion of the State Water Control Board's
25 direct and indirect costs associated with the processing of an application to issue, reissue,
26 amend or modify any Virginia Water Protection, Ground Water Withdrawal, or Surface
27 Water Withdrawal permit or certificate and for assuring compliance with such permits,
28 in accordance with this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254
29 et seq.) of this title, for the purpose of more efficiently and expeditiously processing
30 permits and assuring compliance with such permits. The fees shall be exempt from
31 statewide indirect costs charged and collected by the Department of Accounts. The Board

1 shall have no authority to charge such fees where the authority to issue such permits has
2 been delegated to another agency which imposes permit fees.

3 B. Fee amounts shall reflect the average time and complexity of processing a permit in
4 each of the various categories of permits and permit actions and the size of the project.
5 However, notwithstanding any other provision of law, in no instance shall the Board
6 charge a fee for a permit pertaining to a farming operation engaged in production for
7 market or for a permit pertaining to maintenance dredging for federal navigation channels
8 or other Corps of Engineers sponsored dredging projects, and in no instance shall the
9 Board exceed the following amounts for the processing of each type of permit/certificate
10 category:

<u>Type of Permit/Certificate Category</u>	<u>Maximum Amount</u>
<u>1. Virginia Water Protection</u>	
<u>Individual - Wetlands</u>	<u>\$ 2,200 per acre of impact</u>
<u>Individual - Minimum Instream Flow</u>	<u>\$24,000</u>
<u>Individual - Reservoir</u>	<u>\$35,000</u>
<u>General</u>	<u>\$ 1,200</u>
<u>2. Ground Water Withdrawal</u>	<u>\$ 6,000</u>
<u>3. Surface Water Withdrawal</u>	<u>\$ 12,000</u>

19
20 These maximum amounts on permit fees shall be adjusted annually based upon changes
21 in the Consumer Price Index using 2004 as the base year. Amendments to the fee
22 schedule regulation that are based on changes in the Consumer Price Index shall be
23 exempt from Article 2 of Chapter 40 of Title 2.2. When modifications in these permits
24 or certificates have been initiated by the Board, the fee for the modified permit or
25 certificate shall not exceed seventy-five percent of the maximum amount established by
26 this subsection.

27 C. When promulgating regulations establishing permit fees, the Board shall take into
28 account the permit fees charged in neighboring states and the importance of not placing
29 existing or prospective industries in the Commonwealth at a competitive disadvantage.

30 D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the
31 Board shall make a report on the implementation of the water permit program to the

1 Senate Committee on Agriculture, Conservation and Natural Resources, the Senate
2 Committee on Finance, the House Committee on Appropriations, the House Committee
3 on Agriculture, Chesapeake and Natural Resources and the House Committee on
4 Finance. The report shall include the following: (i) the total direct and indirect costs for
5 each program, (ii) the total fees collected by permit category, (iii) the amount of general
6 funds allocated to the Board, (iv) the amount of federal funds received, (v) the Board's
7 use of the fees, the general funds, and the federal funds, (vi) the number of permit
8 applications received by category, (vii) the number of permits issued by category, (viii)
9 the timeliness of permit processing, and (ix) the fees charged to the permit holders and
10 applicants in neighboring states.

11 E. Fees collected pursuant to this section shall not supplant or reduce in any way the
12 general fund appropriation to the Board.

13

14 **2. That the regulations adopted by the Virginia Waste Management Board and the**
15 **State Water Control Board to implement the provisions of this Act shall be exempt**
16 **from the provisions of Article 2 of Chapter 40 of Title 2.2 and shall become effective**
17 **upon filing with the Registrar.**

Attachment 2- Lists of Technical Advisory Committee Members

Air and Hazardous Waste Technical Advisory Committee Members

Bob Robinson, Virginia Manufacturers Association
Helen Tansey Lang, League of Conservation Voters, Education Fund
John Hadfield, Southeastern Public Service Authority / Virginia Municipal League
Kim Shulze, Ciba Specialty Chemicals / Virginia Chemistry Council

Solid Waste Technical Advisory Committee Members

Bill Dennison, Bristol / Southwest Virginia Solid Waste Management Association
Bob Robinson, Virginia Manufacturers Association
Helen Tansey Lang, League of Conservation Voters, Education Fund
Jeff Burrier, BFI Brunswick / Virginia Waste Industries
Jeff Smithberger, Solid Waste Management Association
John Hadfield, SPSA / Virginia Municipal League
Patti Jackson, The James River Association / Virginia Conservation Network
Larry Land, Virginia Association of Counties
Denise Thompson, Virginia Municipal League
Herman Cook, DuPont, Virginia Chemistry Council

VWP Technical Advisory Committee Members

Mike Toalson, Home Builders of Virginia
Phil Abraham, Virginia Association of Commercial Real Estate Developers
Evans Drake, Honeywell, Chemistry Council of Virginia
John Carlok, Hampton Roads Planning District Commission
Denise Thompson, Virginia Municipal League
Randy Bush, Virginia Forrest Products Association
Patti Jackson, James River Association / Virginia Conservation Network
Helen Tansey Lang, League of Conservation Voters, Education Fund
Denise Thompson, Virginia Municipal League
Larry Land, Virginia Association of Counties

VPDES / VPA Technical Advisory Committee Members

Bob Robinson, Virginia Manufacturers Association
Chris Pomeroy, Virginia Association of Municipal Wastewater Agencies
Deborah Young, Honeywell, Chemistry Council of Virginia
Denise Thompson, Virginia Municipal League
Robert Steidel, City of Richmond, Virginia Municipal League
Hobey Baughan, Virginia Poultry Federation
John Carlock, Hampton Roads Planning District Commission
Larry Land, Virginia Association of Counties
Randy Bush, Virginia Forrest Products Association
Sam Hamilton, Virginia Agribusiness Council

Wilmer Stoneman, Virginia Farm Bureau
Patti Jackson, James River Association / Virginia Conservation Network
Helen Tansey Lang, League of Conservation Voters, Education Fund

Attachment 3 - Statements Submitted by Stakeholders

During discussions of funding strategies, the Hampton Roads Planning District Commission, the Virginia Association of Counties, the Virginia Municipal League, the James River Association, and the Virginia Conservation Network submitted their policy statements concerning funding of the DEQ's permit programs. The following are copies of statements submitted by these groups.



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AUG 25 2003

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ARTHUR L. COLLINS, EXECUTIVE DIRECTOR/SECRETARY

August 22, 2003

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Debbie Ritter, *Council Member*
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FRANKLIN

Mark S. Fetheroll, *Council Member*
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GLOUCESTER COUNTY

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Regina V.K. Williams, *City Manager*
Berkeley C. Winn, *Council Member*
W. Randy Wright, *Council Member*

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J. Thomas Benn, III, *Council Member*
C. W. McCoy, *City Manager*
Cameron C. Pitts, *Council Member*

SOUTHAMPTON COUNTY

Michael W. Johnson, *County Administrator*
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SURRY COUNTY

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Meyera E. Oberndorf, *Mayor*
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James K. Spore, *City Manager*
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WILLIAMSBURG

Jackson C. Tuttle, II, *City Manager*
Jeanne Zeidler, *Mayor*

YORK COUNTY

James O. McReynolds, *County Administrator*
Sheila S. Noll, *Board Member*

The Honorable W. Tayloe Murphy, Jr.
Secretary of Natural Resources
P.O. Box 1475
Richmond, Virginia 23218

Re: Environmental Permit Fees
(ENV:PERMIT FEES)

Dear Secretary Murphy:

Enclosed for your consideration is one (1) copy of the "Guiding Principles for State Environmental Permit Fees - Statement of the Hampton Roads Planning District Commission." Under separate cover, copies of the Statement are being provided to the members of the Hampton Roads' General Assembly Delegation. The "Guiding Principles" were developed by consensus and recommended to the HRPDC by representatives of the region's sixteen local governments, regional wastewater and solid waste management agencies. Local government participants represented the water, wastewater, stormwater and environmental planning functions of the region's localities.

At its Executive Committee Meeting of August 20, 2003, the Hampton Roads Planning District Commission endorsed the Statement of Guiding Principles and urges your consideration of these Principles in developing proposals to restructure and establish fees associated with the various environmental permits that are issued by the Department of Environmental Quality. The Principles recognize that the Department of Environmental Quality must have adequate funding in order to effectively implement its regulatory programs and the General Fund is the preferred and appropriate source for that funding. From that basic premise, the Principles provide guidance on structuring and evaluating permit fee proposals. An extensive list of Areas of Consideration provides background to the Guiding Principles and further thoughts on matters to be considered in developing program details.

The Honorable W. Tayloe Murphy, Jr.
August 22, 2003
Page 2

The Hampton Roads Planning District Commission will appreciate your consideration of its Statement of "Guiding Principles on State Environmental Permit Fees." The HRPDC staff would be happy to discuss this issue with you or your staff in more detail. If you have any questions, please do not hesitate to call.

Sincerely,



Arthur L. Collins
Executive Director/Secretary

JMC:fh

Enclosure

Copy: Ms. Kathy Frahm, DEQ ✓

**GUIDING PRINCIPLES FOR STATE ENVIRONMENTAL PERMIT FEES -
STATEMENT OF THE HAMPTON ROADS PLANNING
DISTRICT COMMISSION**

PREAMBLE

The Commonwealth of Virginia and specifically the Department of Environmental Quality must have adequate funding to implement its regulatory programs, including permit processing, education, assistance, inspections, enforcement and compliance. These programs and responsibilities are established in the Virginia Code and in delegation agreements between the U.S. Environmental Protection Agency and the State. As General Fund support for the natural resource and environmental quality programs of the Commonwealth has declined, the State has looked to permit fees and conditions on permits as means of covering program costs. The General Assembly has directed the Department of Environmental Quality to evaluate options for raising additional revenue through the permit program. Restructuring of the environmental permit fee program should be determined and evaluated in the context of other initiatives to evaluate the state tax structure and the provision of funding to support the natural resource responsibilities of the Commonwealth.

The Hampton Roads Planning District Commission through its Directors of Utilities Committee and its Joint Environmental Committees has reviewed materials developed by the Department of Environmental Quality concerning the structure and level of the permit fees. Those Committees have developed a set of Guiding Principles for use by the HRPDC in evaluating potential modifications to the State's permit fee structure. They have also identified several additional considerations for modifications to the State's permit fee structure that reflect the division of responsibilities among state and local government and the public service nature of local government activities.

GUIDING PRINCIPLES

Permit fees should bear a direct relationship to the service being provided by the Commonwealth. Fees, paid by applicants for environmental permits, should be used only to cover the cost of implementing the permit program.

To assist the Department of Environmental Quality in its efforts to enhance the efficiency and effectiveness of the regulatory programs, a local government oversight committee should be established to provide direct input to program reviews and establishment of permit fees.

The General Fund is the preferred and appropriate source of basic funding to support the regulatory programs, since they serve to implement Article XI of the Constitution of Virginia. The regulatory programs are designed to protect the public health, safety and welfare. Implementation of these programs is the overall responsibility of the State. The transfer of funding responsibility for those programs from the state budget to local budgets for municipal services to protect the public health and the environment is in effect a tax on the citizens of the Commonwealth.

To the extent that fee levels exceed the cost and value of the service being provided by the Commonwealth, i.e. administration of the permit program, they constitute an unfunded mandate.

Local governments and regional entities (political subdivisions) provide drinking water and manage wastes produced by the general public as public, non-profit services. This is a basic responsibility of government. Any fee system should reflect the public service, non-profit nature of local government and regional entity service provision and management activities.

Fee revenue should be placed in a non-reverting fund (enterprise account) to ensure the availability of such revenues to sustain the programs.

Programs of statewide application should not be funded through permit fees, but through the General Fund. These programs include, for example, water supply and water quality planning, citizen monitoring and environmental education.

AREAS OF CONSIDERATION

In reviewing the Environmental Permit Programs of the Commonwealth and developing the "Guiding Principles for State Environmental Permit Programs," the Hampton Roads Planning District Commission has considered a number of elements of the Permit Program, their potential implications to local government program operation, and measures that could be used to mitigate negative impacts on local governments, while recognizing their positive contributions to environmental quality in the Commonwealth. These other considerations serve as background information to support the "Guiding Principles" and should be considered in any effort by the Commonwealth to further evaluate and restructure the environmental permit fee program.

A number of other initiatives are underway in the Commonwealth to address the adequacy of funding for state programs. They include ongoing comprehensive evaluations of the state tax structure and potential steps to reform that structure. They also include a comprehensive initiative to determine funding needs and revenue sources for the Commonwealth's natural resource agencies and programs. Restructuring of the environmental permit fee program should be determined and evaluated in the context of these other initiatives.

It is recognized that under the delegation agreements, the U. S. Environmental Protection Agency has the authority to take over the permit programs, if it determines that the Department of Environmental Quality is unable to properly implement the programs.

Nonpoint sources of water pollution, other than those discharged from permitted municipal separate storm sewer systems, are not governed by state regulatory permit programs, although the scientific community cites them as the primary causes of continued impairment of water quality. Because they are unregulated, they will not be affected by the fee program and, thus, will not contribute financially to program

operation. The General Fund is the only viable and equitable means of funding the costs of programs addressing nonpoint source pollution.

Local governments and regional entities (political subdivisions) manage wastes produced by the general public as a public, non-profit service. This is a basic responsibility of government.

Private individuals and corporations manage wastes as one element of producing goods and services for sale. They expect to make a profit from these ventures.

Any fee system should reflect the public service, non-profit nature of local government and regional entity management activities.

A system involving annual payments could support the goal of long-term program stability and provide certainty in the budget process. To facilitate local government budgeting, such fees should be established or adjusted no later than October/November to take effect on the following July 1st. Any upward adjustment should reflect projections of audited changes in program costs.

Fees should reflect the division of responsibility between state and local government.

Fees should reflect local government contributions to program development and implementation.

The fee system should be designed to provide an incentive to permittees to exceed regulatory requirements and to reflect the contributions of permittees to the implementation of the state program.

To provide incentives for permit holders to exceed permit requirements, fees could decline in amount based on incremental reductions in pollutant discharge that result in water quality that is better than required. Fees could be reduced on a dollar for dollar basis to reflect financial contributions to research and monitoring efforts that exceed permit requirements.

The HRPDC Guiding Principles indicate that fees should reflect local government contributions to program development and implementation. The following are potential approaches to accomplishing that Principle.

- Ground Water Withdrawal Permits. Credit should be given for local/regional financial support of model development as well as research and monitoring through installation and operation of observation wells.
- Stormwater/Erosion and Sediment Control. Localities are required to implement erosion and sediment control programs including plan review, permit issuance, inspections and enforcement. These requirements are mirrored in the VPDES Construction Activities General Permits. Program delegation, including the associated revenue, to local governments may be a viable option. Details of

program delegation should be developed individually at local option. Sharing of permit revenues with localities that are implementing these programs may be another option.

- Environmental Management Facility Inspections. Local or regional entities, such as local governments, waste management authorities, sanitation districts, municipal and regional water suppliers and local or regional stormwater agencies, should receive less frequent inspections, and as a quid pro quo for reducing DEQ inspection costs, reduced fees, if they have achieved ISO 14000 or Emergency Management System (EMS) certification.

The fee system needs to reflect the inability of local governments in some instances of long-term contractual relationships to pass along the increased costs. For example, it may be appropriate to levy fees on entities treating water rather than on entities withdrawing water.

The funding system, including permit fees, should be structured in a manner conducive to program stability. Funding systems involving combinations of fees, surcharges and annual payments should be balanced among the funding sources.

Commitment by permit holders through annual funding to support state environmental permit programs should be matched by a commitment from the State to provide appropriate levels of funding from the General Fund to support those environmental management activities that are of statewide application and not discrete elements of the permit program.

Program redundancy, involving implementation of similar programs by multiple agencies is not cost-effective. Integration of programs, such as stormwater management, into one program implemented by one agency should lead to reductions in cost and increases in program efficiency. As cost-savings from program integration are realized, they should be passed along to permittees through reduced fees.

VIRGINIA ASSOCIATION OF COUNTIES



CONNECTING COUNTY GOVERNMENTS SINCE 1934

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Stafford County

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Secretary-Treasurer
Mr. R. "Rudy" Butler
Stafford County

Immediate Past President
Mr. W. Hyland
Stafford County

Executive Director
Mrs. D. Campbell, CAE

November 20, 2003

Ms. Kathy Frahm
Policy Director
Department of Environmental Quality
P.O. Box 10009
Richmond, VA 23240-0009

Dear Kathy:

Thank you very much for your hard work and the opportunity you provided all stakeholders over the past few months to work with DEQ in considering alternative funding options for DEQ's permit programs.

By this letter I wanted to confirm VACo's policy statement on permit fees. This statement, which was reaffirmed by the Association's full membership during its annual business meeting on November 11, asserts the following:

"VACo opposes any additional authority for any natural resource agencies to impose fees on local governments for the review of permit applications or any other activities that should be financed through general fund revenues. VACo supports elimination of permit fees and the return of responsibility for meeting the costs of processing permit applications to the state. However, if permit fees are to be imposed, they should only cover the direct costs associated with the processing of permit requests."

Should you have any questions, I would be glad to discuss VACo's policy on permit fees with you in further detail.

Thank you very much for your consideration of this matter, and - as always - I look forward to working with you in the future.

Sincerely,

Larry Land
Director of
Policy Development

101 East Broad Street
Suite LL 20
Richmond, Virginia
219-1928

(4) 788-6652
FAX (804) 788-0083

email: mail@vaco.org
web site: www.vaco.org

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R. MICHAEL AMYX

MAGAZINE

VIRGINIA TOWN & CITY

November 20, 2003

Kathy R. Frahm, Esq.
Policy Director
Department of Environmental Quality
629 East Main Street
P. O. Box 10009
Richmond, VA 23240-0009

VIA FAX: 698-4346

Re: *Environmental Permit Program*

Dear Ms. Frahm:

We have appreciated the opportunity of working with you to develop proposals to restructure and establish fees associated with the various environmental permits issued by the Department of Environmental Quality.

DEQ must have adequate funding to implement its regulatory programs. The State General Fund is the preferred and appropriate source of basic funding to support these regulatory programs, which implement Article XI of Virginia's Constitution. Additionally, VML's 2004 Environmental Quality Policy Statement specifically addresses the permit program:

"The municipal permit program serves the public as a whole. VML supports the development of an equitable and sustainable environmental permit fee structure that recognizes this public benefit. VML opposes the use of fees paid by environmental permit applicants for anything other than covering the direct cost of reviewing permit applications and issuing permits."

We look forward to continuing to work with you in the coming months.

Sincerely,

R. Michael Amyx
Executive Director

Copy to: The Honorable W. Tayloe Murphy, Jr.
Mr. Robert G. Burnley
Ms. Melissa Porterfield

P.O. Box 12164

RICHMOND, VIRGINIA 23241

13 EAST FRANKLIN STREET

RICHMOND, VIRGINIA 23219

804/649-8471

FAX 804/343-3758

E-MAIL e-mail@vml.org

www.vml.org



December 8, 2003

Ms. Melissa Porterfield
Department of Environmental Quality
629 E. Main Street
Richmond, VA 23219

Dear Melissa:

Thank you for the opportunity to participate in the stakeholder meetings regarding permit fees for water, wastewater and waste facilities. On behalf of the James River Association, I would like to offer the following comments.

1. We recognize and support the need for stable and adequate funding for the Department of Environmental Quality's permit programs. We have been concerned about the lack of stability and certainty of support for the resources necessary to review applications, draft permits, administer permits, conduct inspections, and enforce permits in recent years. This program is in serious jeopardy of not fulfilling state and federal mandates to protect the environment and public health. If Virginia does not fully administer this program, it is in danger of losing its delegation of authority from the U.S. Environmental Protection Agency for federal permit programs.
2. We support the proposal to have permit application fees and annual fees to support the permit programs on a more stable and reliable basis, and to prevent the roller coaster effect of permit application fees that make budgeting and allocation of resources difficult. We also support the incentive of allowing a small reduction in annual fees for those facilities that reduce their pollutant loading and implement quantifiable pollution prevention measures.
3. The DEQ permit programs are necessary to control pollutants entering the environment and to protect public health and the environment. We support the permit holders paying their fair share of the costs of the permit program. While the argument could be made that they are the users of the program and should pay the full cost of the program, we support the permit holders paying at least 50% of the total costs of the permit programs. This will free up several million dollars in general funds that have been used to subsidize these programs for the past 30 years. The general funds should be used for other DEQ programs that are currently unfunded or underfunded, including water quality monitoring, the development of Total Maximum Daily Load (TMDL) Plans for the 44% of state waters that do not meet water quality standards, and nutrient reduction to meet Chesapeake Bay goals.

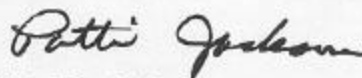


4. We support the setting of permit fees by regulation, and oppose setting the fees in the Code of Virginia. The fees set in code in 1991 were frozen for 12 years, without any adjustment for inflation, and that is why the permit programs are so inadequately funded today. This situation will recur, unless the permit fees are set by regulation, which would provide greater and fairer opportunities for public comment and participation by all affected parties, including the citizens who are directly affected by the permitted discharges.
5. We suggest that all permitted facilities should pay fees, including Confined Animal Feeding Operations, which have the potential to cause significant harm to the environment and public health. These are not family farms, and should be treated as industrial operations, since they have highly concentrated sources of pollution. If they are big enough to require a permit, they should pay their fair share of the permit program needed to regulate them.
6. We urge the Department of Environmental Quality to move forward with these changes as soon as possible to avoid any lapse in your ability to meet your mandated responsibilities for permit programs under state and federal law, and to assure the public that their health and the environment are being adequately protected.

The James River Association is also a member of the Virginia Conservation Network, a coalition of over 100 conservation organizations in the Commonwealth, which supports permit holders paying their fair share of the permit program.

Thank you for the opportunity to comment. We hope that these comments are helpful in moving this process forward.

Sincerely,



Patricia A. Jackson
President and CEO



Virginia Conservation Network

Executive Committee

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Ashland*

*Vice President, Patti Jackson
Mechanicsville*

*Treasurer, Lisa Guthrie
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Jim Wamsley, Alexandria

Staff

David Kovacs, Executive Director

Ellen Shepard, Program Coordinator

December 9, 2004

Melissa S. Porterfield
Department of Environmental Quality
629 E. Main Street
Richmond, VA 23219

Re: Permit Program Fees

Dear Ms. Porterfield:

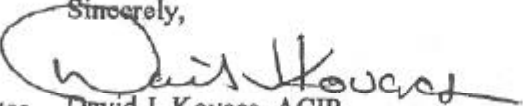
The Virginia Conservation Network (VCN) is an umbrella organization for approximately 100 environmental and conservation organizations in the Commonwealth of Virginia. Our mission is to protect the Commonwealth's air, land, and waters for the benefit of the people, as guaranteed by the Virginia Constitution.

One of our stated purposes is to promote and support sound environmental protection policies. Our membership has empowered its Board of Directors to act on its behalf in the making statements of policy to fulfill our mission and purposes. To this end, on November 18, 2003, the VCN Board of Directors, acting on behalf of its membership, took the position that permit holders should pay the full costs of the natural resources permit programs and fee amounts should be set by regulation and not capped by statute.

The VCN Board has approved a white paper on this subject. It can be viewed on our website at www.vcnva.org. We feel that strong permit review and enforcement is essential to protecting the Commonwealth's environment and natural resources to the point that if DEQ does not have adequate resources to properly conduct the permit, inspection and enforcement programs necessary to protect them, the U.S. Environmental Protection Agency should rescind their delegation of these programs to DEQ.

Please feel free to call on me if you need further information or clarifications.

Sincerely,


David J. Kovacs, ACIP
Executive Director

Attachment: List of Member Organizations

1001 East Broad Street, Suite LL35-C Richmond, VA 23219
804.644.0283 804.644.0286 (fax)
vcngeneral@aol.com www.vcnva.org

VCN Member Organizations

Albemarle Garden Club
 Alliance for the Chesapeake Bay
 Alliance for Community Choice in Transportation
 American Farmland Trust
 American Lung Association of Virginia
 Audubon Naturalist Society
 Augusta Garden Club
 Back Bay Restoration Foundation
 BikeWalk Virginia
 Blue Ridge Environmental Network
 Boxwood Garden Club
 Brunswick Garden Club
 The Cabell Brand Center
 Cape Henry Audubon Society
 Chesapeake Bay Foundation
 Chesapeake Bay Foundation, York Chapter
 Citizens Alliance to Save Huntley Meadows
 Citizens for a Better Eastern Shore
 Citizens for Fauquier County
 Clean Water Action
 The Conservation Fund
 Cowpasture River Preservation Society
 Elizabeth River Project
 Fairfax Audubon Society
Fairfax Coalition for Smarter Growth
 Fauquier & Loudoun Garden Club
 Friends of Bandy Field
 Friends of Chesterfield's Riverfront
 Friends of Daniel's Run Park
 Friends of Rockfish Watershed
 Friends of the Powhatan Creek Watershed
 Friends of the North Fork of the Shenandoah
 Friends of the Rappahannock
 Friends of the Rivers of Virginia
 Friends of Sugarland Run
 Garden Club of Fairfax
 Garden Club of Norfolk
 Garden Club of Virginia
 George Washington's Fredericksburg Foundation
 Goose Creek Association
Greater Lynchburg Environmental Network (GLEN)
 Hampton Roads Garden Club
 Harborfront Garden Club
 Hillside Garden Club
 Hoffer Creek Wildlife Foundation
 Hunting Creek Garden Club
 Huntington Garden Club
Izaak Walton League of America-VA Chapter No. 1
 James River Association
 James River Garden Club
 Last Great Waters Foundation
 League of Conservation Voters-EF
 Leesburg Garden Club
 Martinsville Garden Club
 Mill Mountain Garden Club
 The Nature Conservancy
National Parks & Conservation Association
 National Wildlife Federation
 Northern Neck Audubon Society
 Northern Shenandoah Valley Audubon Society
 Northern Virginia Conservation Trust
 Piedmont Environmental Council
 Potomac Conservancy
 Preservation Alliance of Virginia
 Prince William Conservation Alliance
 Prince William Natural Resources Council
 Rappahannock League for Environmental Protection
 Rappahannock Valley Garden Club
Residents Against Indiscriminate Development (RAID)
 Richmond Audubon Society
 Rockbridge Area Conservation Council
 Scenic 340 Project
 Scenic America
 Scenic Virginia
 Sierra Club, Battlefields Group
 Sierra Club, Blue Ridge Group
 Sierra Club, Chesapeake Bay Group
 Sierra Club, Falls of the James
 Sierra Club, Great Falls Group
 Sierra Club, Mount Vernon
 Sierra Club, New River Group
 Sierra Club, Piedmont Group
 Sierra Club, Roanoke River
 Sierra Club, Thunder Ridge
 Sierra Club, Virginia Chapter
 Sierra Club, York River Group
 Spotswood Garden Club
 Southern Environmental Law Center
 SE Rural Community Assistance Project
 Synergy
 Three Chopt Garden Club
 Trust for Public Land
 Tuckahoe Garden Club
 UVA Recycling
 Valley Conservation Council
 VA Association of Soil & Water Conservation Districts
 Virginia Audubon Council
 Virginia Beach Audubon Society
 Virginia Beach Garden Club
 Virginia Bicycling Federation
 Virginia Chapter of the Wildlife Society
 Virginia Forest Watch
 Virginia Housing and the Environment
 Virginia League of Conservation Voters
 Virginia Native Plant Society
 Virginia Society of Ornithology
 Virginia Trout Unlimited
 Western Virginia Land Trust
Wetlands Watch
 Wildlife Center of Virginia
 Williamsburg Land Conservancy
 Williamsburg Garden Club
Organizations that are underlined joined VCN in 2003.