

**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION  
OF THE VIRGINIA GENERAL ASSEMBLY**

**INTERIM REPORT:  
Review of the  
Department of  
Environmental  
Quality**

**House Document No. 44 (1996 Session)**

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## **Preface**

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The Department of Environmental Quality (DEQ) was created by the 1992 General Assembly and began operation in 1993. JLARC's review of the department was mandated by House Joint Resolution 531, approved by the 1995 General Assembly. HJR 531 directs JLARC to prepare an interim report for the 1996 General Assembly and a final report for the 1997 General Assembly. This interim report focuses on issues related to DEQ's reorganization.

JLARC staff found that DEQ's reorganization lacked adequate planning, particularly strategic planning. Several personnel management concerns were also identified by JLARC staff, some of which have larger policy implications for the Governor and General Assembly. One consequence of inadequate planning and problematic personnel practices is that agency morale and employee trust in agency management appear to be low at DEQ.

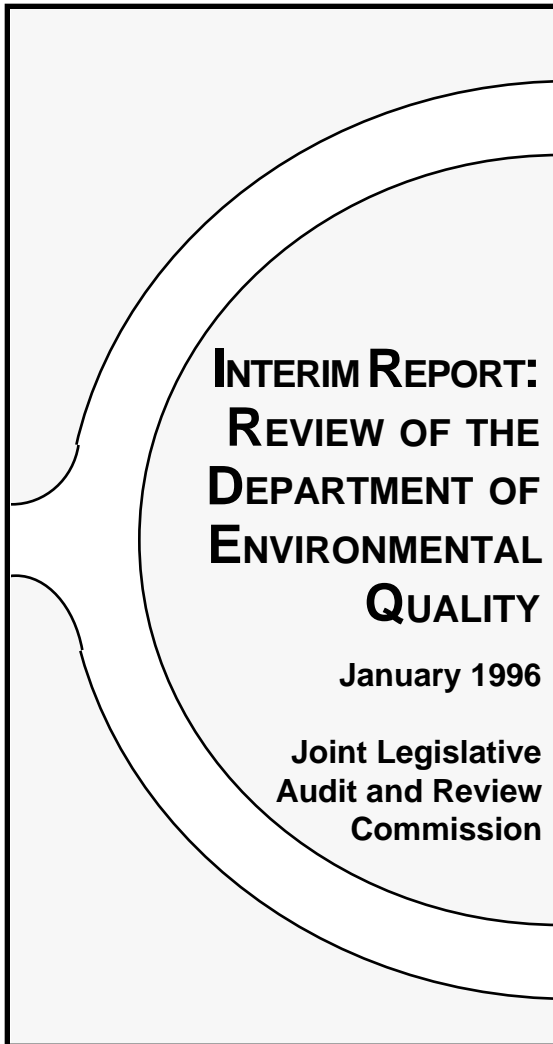
This report makes eight recommendations to improve DEQ's management of its reorganization as well as overall State policy regarding personnel management issues.

On behalf of JLARC staff, I would like to thank the Secretary of Natural Resources and the Director and staff of the Department of Environmental Quality for their assistance during the review. Further, I would like to thank those employees of DEQ whose desire to make the department a better organization resulted in their candid and thoughtful responses to JLARC staff's interview questions and employee survey.

**Philip A. Leone**  
**Director**

**January 22, 1996**

# JLARC Report Summary



In 1993 the General Assembly created the Department of Environmental Quality (DEQ) by merging four State agencies: the State Water Control Board, the Department of Air Pollution Control, the Department of Waste Management, and the Council on the Environment. In 1994, DEQ's new management began a comprehensive reorganization of the agency that is ongoing. This reorganization has resulted in significant staff reductions and decentralization of pro-

gram responsibility to DEQ's regional offices.

JLARC's review of the Department of Environmental Quality was mandated by House Joint Resolution 531 (HJR 531), approved by the 1995 General Assembly. The study mandate directed JLARC to prepare an interim report for the 1996 General Assembly and a final report for the 1997 General Assembly. This report presents interim staff findings from the review of DEQ.

Major conclusions of the current study are:

- DEQ's reorganization has not been supported by adequate strategic and analytical planning.
- Some of DEQ's personnel management practices during the reorganization have been problematic.
- Employee morale and trust in agency management at DEQ are low.
- Employee views are mixed with regard to the effectiveness of the reorganized DEQ.

## **DEQ's Reorganization Needs Improved Planning**

DEQ's leadership team has paid insufficient attention to long-range, strategic planning and systematic analysis. It is also difficult to determine the rationale and analytical processes used by the agency's management in making decisions about staffing cuts. DEQ has not undertaken strategic planning, has only sparse documentation of planning for the reorganization, and does not appear to have carefully planned position reductions. The lack of planning for

position reductions is reflected in the agency not consulting with supervisors of laid off employees, still having some redundant management positions, and adding staff in areas where position reductions occurred earlier in the reorganization.

The lack of systematic planning underlying the reorganization makes it difficult to assess: (1) the degree to which DEQ management expects to make further organizational changes, and (2) the degree to which the agency's authorized staffing level is adequate to effectively carry out its environmental programs.

DEQ should develop a strategic plan for the agency, and DEQ management should use this strategic plan in making decisions about the agency's organization, staffing, and structure. In addition, DEQ should determine its resource requirements for implementing a new program mandate, the Title V operating permits required by the federal Clean Air Act Amendments of 1990.

### **DEQ's Personnel Management Practices Are Problematic**

JLARC staff's review of DEQ's reorganization identified concerns with the agency's personnel practices and with employee morale and trust in agency management. Concerns regarding personnel management include use of inappropriate interview questions, questionable use of wage employees, the involvement of the Secretary of Natural Resources in agency hiring, and a perception among agency employees of favoritism in the agency's hiring. A number of respondents to the JLARC employee survey cited DEQ's questionable personnel management practices as a key factor contributing to the agency's low morale. In addition, the agency is preparing to implement an agency-specific personnel system for compensation, classification, and performance evaluation. DEQ's personnel management problems

raise concerns about the desirability of providing it authority for its own personnel system.

### **DEQ Employee Morale and Trust in Agency Management Are Low**

JLARC's survey of DEQ employees suggests that employee morale and trust in agency management are low. While organizational change itself can have a negative effect on morale, other factors contributing to low morale at DEQ appear to be: problematic internal communication in the agency, a low level of trust among employees in agency management, and fear of job loss. The survey item regarding agency morale asked respondents to agree or disagree with the statement that "DEQ employee morale is good." This survey item had been used in three previous JLARC employee surveys of State employees at other agencies. The top half of the table on page III compares the results of these surveys.

JLARC staff found that DEQ's morale problems extend throughout the agency, including headquarters staff and staff in the agency's regional offices. In addition to the finding that morale in the agency is low, JLARC staff also found that trust in agency management is low. The bottom half of the table on page III compares survey responses on trust in agency management from DEQ employees and the previous JLARC study that used this survey item.

### **Employee Views Are Mixed About the Effectiveness of the Reorganized DEQ**

DEQ employees generally agreed that the agency is making progress towards its goals of improving customer service and empowering regional employees, although DEQ employees differed on whether these were appropriate goals for the agency. A plurality of DEQ employees thought that the

**Comparison of JLARC Survey Responses Rating Morale**

Statement: *Employee morale is good.*

<u>Department</u>	<u>Strongly Agree %</u>	<u>Agree %</u>	<u>Disagree %</u>	<u>Strongly Disagree %</u>	<u>No Opinion %</u>	<u>Number of Respondents</u>
<b>Department of Environmental Quality (1995)</b>	<b>0</b>	<b>4</b>	<b>34</b>	<b>55</b>	<b>7</b>	<b>127</b>
Department of Personnel and Training (1993)	0	28	49	15	9	80
Department of Education (1991)	0	10	37	45	8	71
Department of Taxation (1991)	2	25	32	32	10	190

**Comparison of Survey Responses Rating Trust in Agency Management**

Statement: *Employee trust in agency management is good.*

<u>Department</u>	<u>Strongly Agree %</u>	<u>Agree %</u>	<u>Disagree %</u>	<u>Strongly Disagree %</u>	<u>No Opinion %</u>	<u>Number of Respondents</u>
<b>Department of Environmental Quality (1995)</b>	<b>0</b>	<b>4</b>	<b>34</b>	<b>55</b>	<b>7</b>	<b>127</b>
Department of Education	0	13	32	42	14	71

Note: Percentages may not add to 100 due to rounding; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

Source: JLARC staff questionnaire of Department of Taxation staff, Spring 1991; JLARC survey of Department of Education staff, May 1991; JLARC survey of Department of Personnel and Training staff, Summer 1993; and JLARC survey of Department of Environmental Quality employees, September 1995.

new DEQ would be less efficient and effective than the former DEQ. Forty percent thought that the new DEQ would be less efficient and effective, 27 percent of DEQ employees thought that the new DEQ would be more efficient and effective, and 27 per-

cent thought that the new DEQ would be about the same.

The JLARC survey also asked DEQ employees whether the agency was advancing towards a number of goals stated in the agency's reorganization plan. One of

these goals was maintaining environmental quality. Forty-nine percent of DEQ's employees disagreed with the statement that DEQ was maintaining environmental quality; 33 percent agreed with the statement.

Another survey finding is that DEQ technical employees fear retaliation for making a decision consistent with law and regulation but which upsets a member of the regulated community. Forty-three percent of technical employees responding to the survey thought that their jobs would not be at risk if they made a decision consistent with law and regulation but which raised concern among members of the regulated community. Forty-one percent of employees thought their jobs would be at risk to some extent. Sixteen percent of employees thought their jobs would be at risk to a very great extent. A total of 57 percent of DEQ technical employees responding to this survey item indicated some fear of retaliation.

### **Implications of Phase I Findings**

This phase of the review concentrated on DEQ's ongoing reorganization, and it identified concerns with inadequate planning for the reorganization, DEQ's personnel practices, and the low level of DEQ employee morale and trust in agency management. The findings from this phase of the review need to be placed in context. DEQ's current leadership team has significantly changed the emphasis, structure, and approach that the agency takes in fulfilling its statutory mandate. It is too early in this process to determine the effectiveness of these changes.

However, the effectiveness of a reorganization is oftentimes affected by the planning and management of the change pro-

cess as well as the degree to which employees "buy in" to the change process. DEQ's change process needs more effective management and planning to improve the implementation of changes. Better agency management may also assist the agency in getting employees to buy into the change process by providing employees with needed information about the rationale, goals, objectives, and specifics of proposed changes. At present, JLARC survey findings indicate that DEQ's leadership team faces significant challenges in improving low levels of employee morale and lack of trust in agency management. Both of these factors potentially hamper DEQ management's efforts to restructure the agency to be more efficient and effective.

In addition, given that the great majority of DEQ's resources are spent on salaries and benefits, concerns about personnel practices hinder the agency's ability to be as efficient and effective as possible. Concerns identified in this report about the agency's hiring practices and proposed implementation of a new personnel system should be addressed by the agency's management in order to improve employee morale and trust in management as well as the organization's effectiveness and efficiency. In addition, some aspects of concerns about DEQ's personnel management raise larger questions for the Governor, as the State's chief personnel officer, and the General Assembly regarding the management of the State workforce. These questions include the role of wage employees, the role of cabinet secretaries in agency hiring, and appropriate guidelines for agency-specific personnel systems.

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## I. Introduction

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House Joint Resolution (HJR) 531, approved by the 1995 General Assembly, directed JLARC to study the effectiveness of the organization, operation, and performance of the Department of Environmental Quality. HJR 531 also directed JLARC to submit an interim report to the Governor and the 1996 session of the General Assembly. The final report will be submitted to the Governor and the General Assembly prior to the 1997 session of the General Assembly (Appendix A).

The Department of Environmental Quality (DEQ) was created by the 1992 General Assembly, merging four existing State environmental agencies: the Department of Air Pollution Control (DAPC), the Department of Waste Management (DWM), the State Water Control Board (SWCB), and the Council on the Environment (COE). The DEQ authorizing legislation was re-enacted by the 1993 General Assembly, and DEQ began operation April 1, 1993.

In September 1994, the agency's current management began a significant reorganization of the department, as well as a comprehensive review of existing policies and regulations concerning the environment. This reorganization is ongoing. This report presents interim JLARC staff findings about DEQ and its reorganization. Because of the numerous organizational changes undertaken at DEQ over the last year, this interim report primarily addresses these changes. The effectiveness of DEQ's performance under the emerging structure of DEQ will be the primary focus of the final report to be presented to the Governor and 1997 General Assembly.

### **PREVIOUS REVIEWS OF STATE ENVIRONMENTAL AGENCIES AND PROGRAMS**

State environmental agencies and programs have been reviewed in various levels of detail several times during the past 25 years. These reviews, which have been performed by both the legislative and executive branches, as well as the private sector, have helped shape Virginia's environmental policy and its execution. Eight of these reports are discussed below in terms of their relevance to the organization and function of the current DEQ.

#### ***1970 Governor's Management Study***

The *Governor's Management Study* was conducted by Virginia's business and professional community at the request of Governor Linwood Holton in 1970. The object of the study was to find ways for Virginia to increase its economy and efficiency in government administration. On a broad basis, the report recommended the creation of a system of executive branch organization similar to the Secretarial system now in place in Virginia government. Within this system, the study recommended a Deputy Governor

of Commerce and Resources to oversee, among other agencies, the State water and air pollution control boards.

On a programmatic level, the Governor's Management Study recommended a consolidation of the Division of Water Resources of the Department of Conservation and Economic Development into SWCB. The planning function from the Division of Water Resources was to complement the protection and restoration of Virginia water quality as carried out by SWCB.

Also, to promote efficiency in operation and to avoid duplication of functions, the study recommended that the scope of activities by the three agencies heavily involved in maintaining clean water and air should be clarified. These agencies were the air and water control boards and the Virginia Department of Health (VDH). Specifically, the study recommended that VDH set standards for water, sewage effluent, and air quality, while engineering, fieldwork, regulatory, compliance, educational, and training activities be assumed by the water and air boards.

### **1973 Commission on State Governmental Management Series of Reports**

In 1973, the General Assembly established the Commission on State Governmental Management to examine ways to make State government more efficient, effective, responsive, and responsible. The Commission recommended that the State's Secretariat of Commerce and Resources be divided into a Secretary of Agriculture and Economic Resources and a Secretary of Natural Resources. As part of this recommendation, the Council on the Environment was to be eliminated, with its staff becoming staff of the Secretary of Natural Resources.

The Commission also recommended that SWCB strengthen its emphasis on planning in the water resource area to address the issue of water supply shortages. Further, the Commission recommended that VDH's Bureau of Sanitary Engineering relinquish responsibility for the regulation of sewerage systems and sewage treatment plants to SWCB. Finally, the Commission recommended that virtually all the functions of VDH's Bureau of Solid Waste be assigned to the proposed Secretary of Natural Resources as a Division of Solid Waste Management.

### **1976 JLARC Study: *Water Resource Management in Virginia***

In 1976, JLARC completed a program evaluation of water resource management in the State. In general, JLARC found that Virginia's water laws and management programs had not kept pace with the State's growing urban population. JLARC reported that the State's approach to water resource management was almost entirely focused on pollution control to the exclusion of other important problems such as water supply planning.

With regard to pollution prevention, JLARC found that the State had not been able to control the discharge of many harmful substances into its waters. JLARC concluded that a major obstacle to resolving the problems associated with water resource management was the fragmentation of authority for water resource policy formulation. Thus, JLARC recommended the creation of one water resource management agency responsible for “assessing the Commonwealth’s water resource needs, directing State water resource programs and guiding the activities of local, State, and federal organizations toward the common goal of adequate and safe water for all Virginians.”

A major focus of this report was SWCB and its role in water resource management. Specific to SWCB, JLARC found that the low priority SWCB had assigned to the development of water resource plans had severely reduced the Commonwealth’s ability to avoid crisis-oriented decisionmaking. JLARC also cited problems related to the enforcement of pollution permits. JLARC cited incidences of frequent violations that had gone essentially un-corrected due to SWCB’s over-emphasis on a cooperative, rather than legal, approach to enforcement. JLARC also recommended that SWCB establish uniform sampling procedures and a statistically valid methodology to make meaningful conclusions about water quality trends, and be authorized to develop a comprehensive flood management program.

### **1983 Department of Management Analysis and Systems Development Management Consulting Division’s *State Water Control Board Organization and Management Study***

In 1982, the Secretary of Commerce and Resources asked the Management Consulting Division of the Department of Management Analysis and Systems Development (MASD) to conduct a broad study of SWCB. The intent of the study was to define operating practices, procedures, and structures, and to identify reasons for weaknesses.

Like JLARC, MASD found that SWCB had not developed an integrated, continuous agency planning process, and thus many programs and activities were crisis-oriented. Furthermore, according to MASD, SWCB management appeared to lack the management discipline necessary to deal with priority administrative problems and public relations concerns. MASD also found a lack of integrated financial and manpower planning that was creating workload imbalances and threatening programs concerning groundwater and the Chesapeake Bay.

Major recommendations of the MASD study included: consideration of consolidating SWCB and other environmental agencies into one broad environmental agency; development of an effective, long-range planning process for SWCB; and a streamlining of the administrative procedures for processing National Pollution Discharge Elimination System (NPDES) permits.

**1984 JLARC Series on *The Organization of the Executive Branch of Virginia***

House Joint Resolution 33 of the 1982 General Assembly directed JLARC to “study the organization of the executive branch for the purpose of determining the most efficient and effective structure.” In *An Assessment of Structural Targets in the Executive Branch of Virginia*, JLARC recommended that the State Water Control Board, Air Pollution Control Board, Division of Mined Land Reclamation of the Department of Conservation and Economic Development, Council on the Environment, and VDH’s regulation of wastewater treatment facilities, Bureau of Toxic Substances Information, and Bureaus of Solid and Hazardous Waste be combined into one agency. JLARC also presented the option of the State housing all natural resource management and environmental regulation activities under one agency. This broad agency would have incorporated functions in forestry, game, fisheries, marine resources management, environmental regulation, and soil conservation.

**1992 Secretary of Natural Resources’ Report to the General Assembly**

In November 1992, the Secretary of Natural Resources issued a report to the General Assembly entitled *The Department of Environmental Quality: Environmental Management for the Twenty-First Century*. This report addressed the proposed creation of DEQ through the merger of DAPC, DWM, SWCB, and COE, and the efficiencies that the consolidated environmental agency would produce. The report concluded that the climate at DEQ would be one of “enhanced technical assistance, public service and pollution prevention...” Specifically, the report from the Natural Resources Secretariat listed seven capabilities the consolidated environmental agency would have that the four separate agencies that were merged into DEQ did not have. These were:

- one-stop permitting through an office of permit assistance that would also provide technical assistance to businesses and local governments on the regulatory process;
- clear performance expectations and timetables for permitting;
- expanded policy analysis that would allow more comprehensive evaluation of economic consequences and environmental impacts of agency decisions;
- additional opportunities for public participation in agency decision-making, including the creation of a permanent Citizens’ Advisory Group that would report to the agency director;
- enhanced public communication and environmental education capabilities;
- seven consolidated regional offices that would be delegated more powers to make decisions; and

- development of pollution prevention as an overriding agency strategy, and coordinated regulatory programs that limit the transfer of pollution from one medium of the environment to another.

The Secretary's report emphasized that these new capabilities would be possible without increases in either budget or staff. Further, savings would be realized through economies of scale and the elimination of duplicate positions. The report did not propose any staff reductions in the merger; savings from elimination of duplication were to be reallocated to new program directions within the agency. It was apparent from the report that a major goal of the consolidation of environmental agencies into DEQ was a streamlining of the permitting process for the regulated community.

### **1994 Governor's Commission on Government Reform**

The Governor's Commission on Government Reform was charged with reviewing all the functions of State government through Executive Order One (1994). In its examination in the area of natural resources, the Governor's Commission had a number of findings and recommendations regarding DEQ:

- The agency's standard for the length of time for processing a permit should be set at 75 percent of a current reference or average time.
- The Virginia Total Accelerated Cleanup Program (a voluntary cleanup program) should be established.
- All natural resource policy should include a risk assessment in order to provide a dependable scientific and economic base for addressing environmental problems effectively and efficiently.
- DEQ should move from a "command and control" approach to solving environmental problems to an "empowerment approach" where employees and customers have flexibility in implementing solutions that fully meet State environmental standards.
- DEQ should consider all possible methods of consolidating the permit process, including "one-stop-permit shops."

Some of the recommendations made by the Governor's Commission on Government Reform appear to have been implemented in the recent reorganization of DEQ. For example, risk assessments are now utilized in the State's Underground Storage Tank Program to determine if remediation is necessary. Also, regional empowerment has been a defining concept of the reorganization at DEQ during 1995. Further, language in the 1995 Appropriation Act provides that DEQ shall establish a performance standard for permitting processing time at 75 percent of the current average, as was recommended by

the Commission. Finally, legislation was also passed by the 1995 General Assembly to implement a voluntary cleanup program in the Commonwealth.

**1995 JLARC Study: *Solid Waste Facility Management in Virginia: Impact on Minority Communities***

In 1993, the General Assembly approved House Joint Resolution 529 directing JLARC to study practices related to the siting, monitoring, and clean-up of both hazardous and non-hazardous solid waste facilities. While the specific focus of this study was on these activities' impact on minority communities, JLARC also looked at the role of DEQ in oversight of the solid waste program.

The JLARC report found significant gaps in DEQ's central office oversight, as well as problems in the solid waste inspection program administered by regional staff. Among the causes of these problems, the JLARC report cited staff shortages among inspectors, lack of central office guidance, and an inefficient and weak enforcement process for solid waste issues. To address these problems, the JLARC report recommended:

- DEQ, in consultation with the Virginia Association of Counties and the Virginia Municipal League, should develop a technical assistance guide for local governments on the process for siting solid waste management facilities.
- DEQ should improve its oversight program of groundwater monitoring and landfill closure requirements by developing a more vigorous reporting system.
- The Solid Waste Management Regulations should be amended to provide more specific guidance regarding the hazardous waste inspection programs at solid waste management facilities.
- DEQ should conduct a workload analysis for each region and determine the number of inspectors needed to successfully implement its inspection program.
- DEQ should standardize the inspection process by establishing a notice of violation point system.
- DEQ should look at developing an automated management information system to electronically monitor inspection activity and to provide updated information on the compliance status of each solid waste management facility in the State.
- DEQ should develop a plan to identify all inactive landfills which are in violation of State closure regulations so that these sites can be officially closed and routinely monitored.

## **JLARC REVIEW**

This report presents interim staff findings and recommendations regarding the reorganization of DEQ. Its primary intent is to provide the General Assembly, DEQ management, and the Secretary of Natural Resources with useful information on the department's reorganization. The research for the interim review was conducted between June 1995 and October 1995.

### **Study Issues**

This phase of the JLARC review concentrated on the agency's reorganization. JLARC staff emphasized the reorganization during this phase of the review, because the reorganization has substantially revised DEQ's approach to the program areas that will be studied in the second phase of the review. In examining the reorganization, JLARC staff identified three major research issues:

- What planning and analysis was conducted to guide the reorganization of DEQ and was this planning and analysis adequate for effectively implementing the reorganization?
- What are DEQ employees' perceptions of the reorganization of the agency?
- What concerns, if any, are identified about DEQ's implementation of the reorganization?

JLARC staff studied DEQ's planning process for the reorganization because sound planning is an important part of effectively and efficiently implementing significant organizational change. Similarly, the degree to which employees of an organization "buy into" organizational change can be an important determinant of whether the organizational change succeeds as intended by management. Finally, JLARC's review of the reorganization of the Department of Education in 1991 identified several concerns about the reorganization's impact on the agency in particular and the State personnel system in general. JLARC staff conducted a similar review of DEQ's implementation of its reorganization to determine whether aspects of the reorganization raise issues of potential concern to the General Assembly.

### **Research Activities**

Three types of research activities were conducted to address the study mandate. These were: (1) in-person structured interviews, (2) a mail survey of DEQ headquarters and regional staff, and (3) document and data review. Each of these activities is discussed in more detail below.

***Structured Interviews.*** Structured interviews were held with the DEQ director and DEQ staff from headquarters and the six regions. Structured interviews were primarily conducted with DEQ management and supervisory staff, although some non-supervisory staff were also interviewed. Structured interviews were also held with the current Secretary of Natural Resources, former Secretary of Natural Resources, the former director of DEQ, and staff from the Division of Purchases and Supplies of the Department of General Services, the Chesapeake Bay Foundation, and the Virginia Manufacturers Association.

***Employee Survey.*** JLARC staff administered a mail survey to DEQ employees. This type of survey, with a number of the same questions, has been used in previous JLARC management studies of the Department of Education (1991), the Department of Taxation (1992), and the Department of Personnel and Training (1993). This survey was sent to 145 randomly selected grade 13 or below DEQ employees from the six regions and DEQ headquarters, as identified from organization charts provided to JLARC by DEQ on September 1, 1995. This survey solicited employee perceptions of DEQ prior to and during the reorganizations begun in the fall of 1994.

Before drawing the sample, DEQ staff were stratified into eight different categories to ensure substantial representation of personnel from each substantive unit of the organization. Headquarters staff were divided into two groups, administrative staff and technical staff, and each of the six regions was treated as a separate unit. Thus, the eight units were: (1) headquarters administrative staff, (2) headquarters technical staff, (3) Southwest regional staff, (4) West Central regional staff, (5) Valley regional staff, (6) Northern Virginia regional staff, (7) Tidewater regional staff, and (8) Piedmont regional staff. Staff from each of the eight organizational units deemed primarily to have administrative duties were given a condensed version of the survey mailed to technical staff.

In general, the number of people randomly sampled for each stratum was in proportion to the number of persons employed by each branch. One exception was that headquarters technical staff were over-sampled for separate comparison, but their responses were weighted so that all staff had the appropriate impact on calculations of agency-wide percentage results. As a whole, the sample represented approximately 30 percent of all grade 13 or below DEQ employees, according to the organizational chart provided to JLARC from DEQ on September 1, 1995. A total of 127 of the 145 surveys administered were returned for a response rate of approximately 88 percent. Appendix D includes both survey instruments and shows total responses for each option presented by each question on the two survey instruments. In the second phase of this study, another survey will be administered to a sample of DEQ employees to assess whether any changes have occurred in employee perceptions.

***Document and Data Review.*** A number of documents were examined which dealt with DEQ's authority and responsibilities, its previous organization, and its plans to reorganize. These included personnel records, organization charts, internal planning and workload documents, and transcripts of public statements by DEQ management.



Also, the *Constitution of Virginia* and the *Code of Virginia* were reviewed for sections relevant to DEQ and the four agencies that had been merged in the formation of DEQ. For budget information, current and past Appropriation Acts were examined. Internal DEQ documents and files were also reviewed. Finally, general literature on environmental programs was reviewed for background purposes, as was literature on organizational structures and reorganizations.

## **REPORT ORGANIZATION**

This report is organized into three chapters. This chapter has provided a brief introduction to the previous reviews relating to DEQ and the scope of this review. Chapter II presents a more detailed overview of the formation of DEQ and discusses the recent phases of reorganization at DEQ starting in the summer of 1994 and continuing to the present. Chapter III concludes the report with an assessment of the organizational and operational changes that have already taken place at DEQ, and a presentation of issues to be addressed in phase II of this review.



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## **II. Creation of DEQ and Subsequent Organizational Changes**

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The Department of Environmental Quality (DEQ) was created by the 1992 General Assembly, which approved House Bill 1053, merging four State environmental agencies: Department of Air Pollution Control (DAPC), Department of Waste Management (DWM), State Water Control Board (SWCB), and Council on the Environment (COE). DEQ began operation April 1, 1993.

DEQ was created as a result of efforts by the last administration, particularly the Secretary of Natural Resources, to improve cooperation among environmental regulatory agencies and streamline permitting procedures and time frames. DEQ was also supposed to create a more coordinated set of environmental regulations. This coordination was expected to help citizens, businesses, and municipalities navigate the regulatory system more efficiently. As a result, the environment would be better protected. Part of this coordination and streamlining was the concept of “one-stop permitting,” a single location where the owner of a source of pollution could obtain all the required permits for the source of pollution. It was argued that a consolidated environmental agency would be able to speed up the processing of permits which was perceived as a major weakness of the existing system.

DEQ has gone through four major organizational phases since its creation in April 1993. The first phase lasted from the agency’s creation in April 1993 until the appointment of a new agency head by the Governor in June 1994. The second phase began with the current DEQ director’s appointment and lasted until September 1, 1994 when regional directors were appointed for each of DEQ’s six newly created regions. The third phase ran from September 1994 until April 1995, when a major reorganization of headquarters staff, including 17 layoffs, was announced. As part of this reorganization, significant responsibilities and authority were decentralized to DEQ’s six regional offices. DEQ entered the fourth phase of its organizational evolution in May 1995. This phase has been characterized by further decentralization of programs and responsibilities to the regional offices as well as plans to privatize and out-source some functions now performed by State employees. Figure 1 shows a time-line of major organizational changes at DEQ since the new director was appointed.

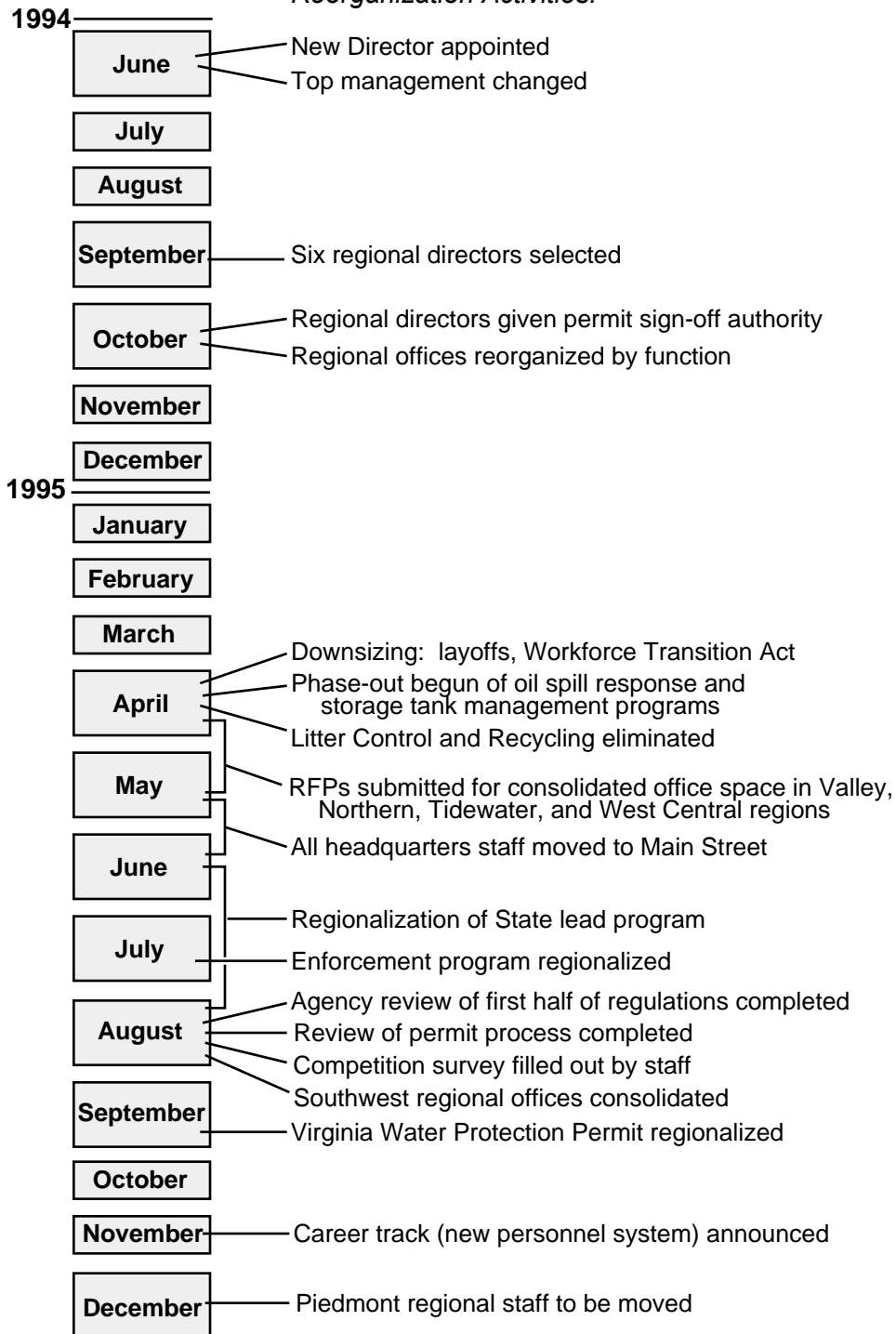
### **BACKGROUND OF AGENCIES MERGED INTO DEQ**

The Department of Environmental Quality was formed in 1993 through the merger of four existing environmental agencies. The largest of these agencies in staffing and funding was the SWCB. The other merged agencies included DAPC, DWM, and COE. COE was by far the smallest of the four agencies in staffing and funding.

**Figure 1**

### Timeline of DEQ's Reorganization

*Reorganization Activities:*



**Note:** Many of the activities shown were concurrent. Accuracy of chart is limited to the month activity was begun or completed.

**Source:** JLARC staff interviews with DEQ employees; JLARC review of DEQ correspondence.

## **The State Water Control Board**

Prior to the creation of DEQ, SWCB was the focal point for the Commonwealth's water resource management programs. The SWCB's pollution control program was initiated in 1946. Over the years, this program evolved to encompass aspects of water resource management other than pollution control.

The most significant directional change at SWCB was due to the Federal Water Pollution Control Act Amendments of 1972 (commonly known as the Clean Water Act). With the Clean Water Act, SWCB was charged with bringing Virginia waters in compliance with new uniform national water quality standards. This new responsibility also entailed a greater emphasis on the broader concept of water resources management, rather than SWCB's traditional focus on pollution control. Thus, the staff of SWCB experienced significant growth as appropriations and personnel from other agencies involved in water resources planning, such as the Division of Water Resources of the Department of Conservation and Economic Development, were combined into SWCB.

In FY 1992, SWCB had a total appropriation of \$83.8 million (more than 50 percent in non-general funds) and a maximum employment level (MEL) of 413. SWCB was merged into DEQ in 1993. The SWCB remains intact, with its staff in DEQ. It is a seven member citizen board appointed by the Governor and confirmed by the General Assembly for four year (staggered) terms.

## **The Air Pollution Control Board/Department of Air Pollution Control**

The State Air Pollution Control Board was established by the General Assembly in 1966 in response to a study conducted by the Virginia Advisory Legislative Council in 1965. The purpose of the board was to facilitate the:

achievement and maintenance of such levels of air quality as will protect human health, welfare and safety and to the greatest degree practicable prevent injury to plant and animal life and property and which will foster the comfort and convenience of the people of the Commonwealth and their enjoyment of life and property and which will promote the economic and social development of the Commonwealth and facilitate enjoyment of its attractions.

The staff of the Air Pollution Control Board became the Department of Air Pollution Control in 1988 with the passage of Senate Bill 239.

With the passage of the federal Clean Air Act and the establishment of the Environmental Protection Agency (EPA) in 1970, a strong federal-state program was initiated with EPA setting national ambient air quality standards. The states were then asked to develop implementation plans to meet the standards.

The added responsibilities that the Clean Air Act delegated to the State forced the Air Pollution Control Board to grow significantly. In 1967, when the first Air Pollution Control Board was appointed, there were two employees and a \$16,800 budget. In FY 1992, the Department of Air Pollution Control had a MEL of 183 and a total appropriation of \$8.9 million. The Department of Air Pollution Control was merged into DEQ in 1993. Currently, the Air Pollution Control Board continues to operate with the assistance of DEQ staff. The Air Pollution Control Board is composed of five members appointed by the Governor for four year staggered terms.

### **The Department of Waste Management**

Prior to 1971, the State did not play an active role in the regulation of waste disposal in Virginia. Ordinances adopted by city councils and county boards of supervisors, and health regulations implemented by local health departments were the only restrictions placed on those involved in waste management in Virginia. This changed in 1971 when the State issued a set of waste regulations and designated VDH to implement these regulations. As open dumping was expressly prohibited, the regulations were to be implemented through a permitting process whereby VDH included requirements for cover, access to the facility, control of paper and dust, pest and animal control, and fire prevention. Hazardous waste disposal was also to be prohibited.

Solid waste disposal regulations were revised in 1979 when the General Assembly required all waste management facilities that were not permitted to get a permit or cease operating. In 1986, the State's waste management regulations were revisited as concern for environmental protection increased nationally. The 1986 General Assembly enacted the Virginia Waste Management Act, which established a separate Waste Management Board and a Department of Waste Management (DWM). In 1988, the State adopted the Solid Waste Management Regulations which established comprehensive criteria governing the siting, design and construction, operation, and closure of solid waste management facilities.

In FY 1992, DWM had a total appropriation of \$10.2 million (more than 50 percent in non-general funds) and a MEL of 124. In 1993, DWM was merged into the new Department of Environmental Quality. While the Waste Management Board retained its statutory responsibilities, it did not retain staff other than that in DEQ. The Waste Management Board continues to operate in the new DEQ and is composed of seven Virginia citizens appointed by the governor for four year (staggered) terms.

### **The Council on the Environment**

The Council on the Environment was created by the General Assembly in 1972 by adding §§10-176 through 10-185 to the *Code of Virginia*. This agency became operational in 1974 with the amendment and re-enactment of §§2.1-51.9, 10-181, 10-183, and 10-185. Specifically, the Council was charged with:

- developing uniform management and administrative systems to assure coherent environmental policies;
- taking necessary steps to promote the efficiency of management and to coordinate administrative practices;
- consolidating, coordinating, and expediting the permit review process;
- coordinating the preparation of a joint environmental agency's budget; and
- preparing and submitting annual environmental and management reports to the Governor and the General Assembly.

The Council was to be composed of nine members and an administrator, all of whom were to be Virginia citizens. Three of the members were to be appointed by the Governor on the basis of merit. The other six members were originally to be the chairmen of the State Water Control Board, the Air Pollution Control Board, the Board of Conservation and Economic Development, the Game and Inland Fisheries Commission, the Marine Resources Commission, and the Commissioner of Health. The Administrator of the Council was to serve as chairman.

The Council on the Environment was appropriated approximately \$84,000 in FY 1975. In FY 1992, just prior to the merger into DEQ, the Council had a budget of \$2.7 million (less than half in general funds). The Council was merged into DEQ in 1993. Unlike its counterparts in air, water, and waste, whose boards still exist with staff support from DEQ, the Council is no longer in existence, although some of its former staff remain in DEQ.

## **CREATION OF DEQ AND INITIAL AGENCY OPERATIONS**

Planning for the creation of DEQ was accomplished through consultation with environmental, industry, municipal, and other affected groups. Implementation of the plan for creating DEQ was delayed for one year by the 1992 General Assembly. DEQ's initial operations faced challenges of combining different agency cultures and consolidating agency operations.

### **Planning for the Creation of DEQ Involved Significant Outside Input**

Legislation was passed in 1992 to create DEQ, but the legislation did not become effective until 1993. The Secretary of Natural Resources was directed to develop an implementation plan before DEQ would actually begin operation. Section 10.1-1182 of the *Code of Virginia* created DEQ and established 11 purposes of the agency:

1. **To assist in the effective implementation of the *Constitution of Virginia* by carrying out State policies aimed at conserving the Commonwealth's natural resources and protecting its atmosphere, land, and waters from pollution.**
2. **To coordinate permit review and issuance procedures to protect all aspects of Virginia's environment.**
3. **To enhance public participation in the regulatory and permitting processes.**
4. **To establish and effectively implement a pollution prevention program to reduce the impact of pollutants on Virginia's natural resources.**
5. **To establish procedures for, and undertake, long-range environmental program planning and policy analysis.**
6. **To conduct comprehensive evaluations of the Commonwealth's environmental protection programs.**
7. **To provide increased opportunities for public education programs on environmental issues.**
8. **To develop uniform administrative systems to ensure coherent environmental policies.**
9. **To coordinate State reviews with federal agencies on environmental issues, such as environmental impact statements.**
10. **To promote environmental quality through public hearings and expeditious and comprehensive permitting, inspections, monitoring, and enforcement programs, and provide effective service delivery to the regulated community.**
11. **To advise the Governor and General Assembly, and, on request, assist other officers, employees, and public bodies of the Commonwealth, on matters related to environmental quality and the effectiveness of actions and programs designed to enhance that quality.**

The Secretary of Natural Resources assembled a task force to develop an implementation plan for DEQ. The group consisted of the directors of the four affected agencies, staff from the four agencies, and staff from seven other State agencies. Citizen input was gathered from six public meetings and a Citizens' Advisory Group. These efforts culminated in the Secretary's 1992 report to the General Assembly. In addition to the five benefits expected from the creation of DEQ, which are enumerated in Chapter I, the Secretary's 1992 report emphasized the idea of "one-stop permitting." The report stated, "this means that a permittee need only confer with one regional office and communicate with a single person, the permit coordinator, on all applicable permits. It does not mean single, consolidated permits for any and all regulated media." The



Secretary believed that this type of permitting would make the process of issuing permits more efficient, more protective of the environment, and more user-friendly.

The implementation plan estimated that 883 full-time employees would be needed to appropriately staff DEQ. The plan did not predict or promise layoffs or staff reductions from any of the four predecessor agencies as a result of the reorganization. The plan stated that streamlining would be achieved by eliminating some position redundancies, but it suggested that any resources made available as a result of this effort would be re-allocated to areas where they were needed. The report suggested that potential areas of need were permitting assistance and environmental education.

### **DEQ's Integration as an Agency Was Not Complete When Agency Management Was Replaced**

The Secretary of Natural Resources' November 1, 1992 report to the General Assembly stated that the complete coordination and consolidation of the State's primary environmental agencies would take two to three years from its start in April 1993. As of January 1994, at the change of administrations, little had changed with the State's administration of environmental policy as a result of the merger of four environmental agencies to form DEQ.

All the regional and satellite offices of DEQ's predecessor agencies were still open at the change of administrations, with a total of 15 regional offices remaining open (seven air offices, six water offices, and two waste offices). Each environmental medium retained a director, its staff from before the merger, and its own citizen advisory board.

One of the primary objectives in creating DEQ was to streamline the permitting process. In July 1993, a step was taken to streamline the process, as DEQ established timetables within which permits should be completed. However, the Secretary of Natural Resources at the time of DEQ's creation wanted to create a system in which a company requiring a permit could contact just one representative from DEQ who would coordinate a company's permitting needs. This goal was not accomplished for a number of reasons. For example, until September 1994 there were separate regional directors (in separate locations) for air, water, and waste. Therefore, if a source was going to emit pollutants into both the air and water, the source's owner had to contact at least two individuals. Also, during this time frame most water and air permits had to be approved by headquarters in Richmond, and the drafting and approval of all waste permitting took place at headquarters.

Another goal of DEQ was to have more public participation in the permitting process. A permit assistance unit was created within DEQ to assist permittees as well as citizens with their concerns about the permitting process, and the air division developed a database for tracking permit progress. By the end of the previous administration some steps had been taken to improve the permitting process, but the goal of "one-stop permitting" had not been realized. It was also too soon to see if these changes had resulted in more efficient completion times for permits or better customer service.

The creation of DEQ was also supposed to lead to more in-depth policy analysis. It was anticipated that the accomplishment of this goal would lead to improved pollution prevention policies, more regional input, and more efficient regulations. It is not clear whether this goal was achieved. However, the 1995 executive budget recommended substantially reducing DEQ's policy and research staffs. The 1995 General Assembly concurred in this recommendation.

The most evident reason the previous administration was unable to fully implement the goals established with the creation of DEQ is the lack of time available between when DEQ was created in April 1993 and when the new administration took office in January 1994. In addition, initial operations of DEQ appeared to be hampered by the need to physically consolidate agency staff, who were located in several different offices in Richmond.

### **INITIAL CHANGES MADE BY DEQ'S CURRENT MANAGEMENT**

A new agency head was appointed for DEQ in June 1994. From June to September 1994 the first phase of DEQ's reorganization took place. The new DEQ director made several changes in agency staffing, primarily affecting top management, soon after he was appointed. In addition, the DEQ director has indicated that the effort to reorganize DEQ began when the new administration took office, and was intended to achieve two goals: (1) to make DEQ a "cost-effective, efficient organization, which could address environmental concerns with a multi-media approach", and (2) to make DEQ more service oriented.

The director concluded that a major change in DEQ's structure was needed to accomplish these goals. This change involved significant decentralization of authority to DEQ's regional offices. In explaining the rationale for decentralization, the director has stated:

Our core functions—permitting and compliance—are performed primarily by the regions who are closest, both geographically and with respect to frequency of interaction, to our constituents. Giving them more autonomy and reorienting headquarters to provide technical support and quality control makes sense. Such an arrangement allows each component to focus on what it does best. It gives the regions authority to go along with the responsibility they have always had, and it allows headquarters to concentrate on developing and applying policy and technical consistency.

### **Staff Changes Were Made Shortly After the Current Director Was Appointed**

DEQ's director began making organizational changes early in his tenure. During his first month at DEQ, the new director eliminated four vacant positions and removed

five employees using Senate Bill (SB) 643, which allowed certain employees to be removed at the “pleasure and will” of the agency head. The five employees removed using SB 643 included: two deputy directors, the director of administration, a management analyst, and the West Central air regional director.

A new group of employees was hired into DEQ headquarters during this same time frame. Many of these individuals came into the agency using temporary (wage) hiring authority. Six of the nine employees brought in on a temporary basis shortly after the appointment of the new agency head were later hired as full-time employees.

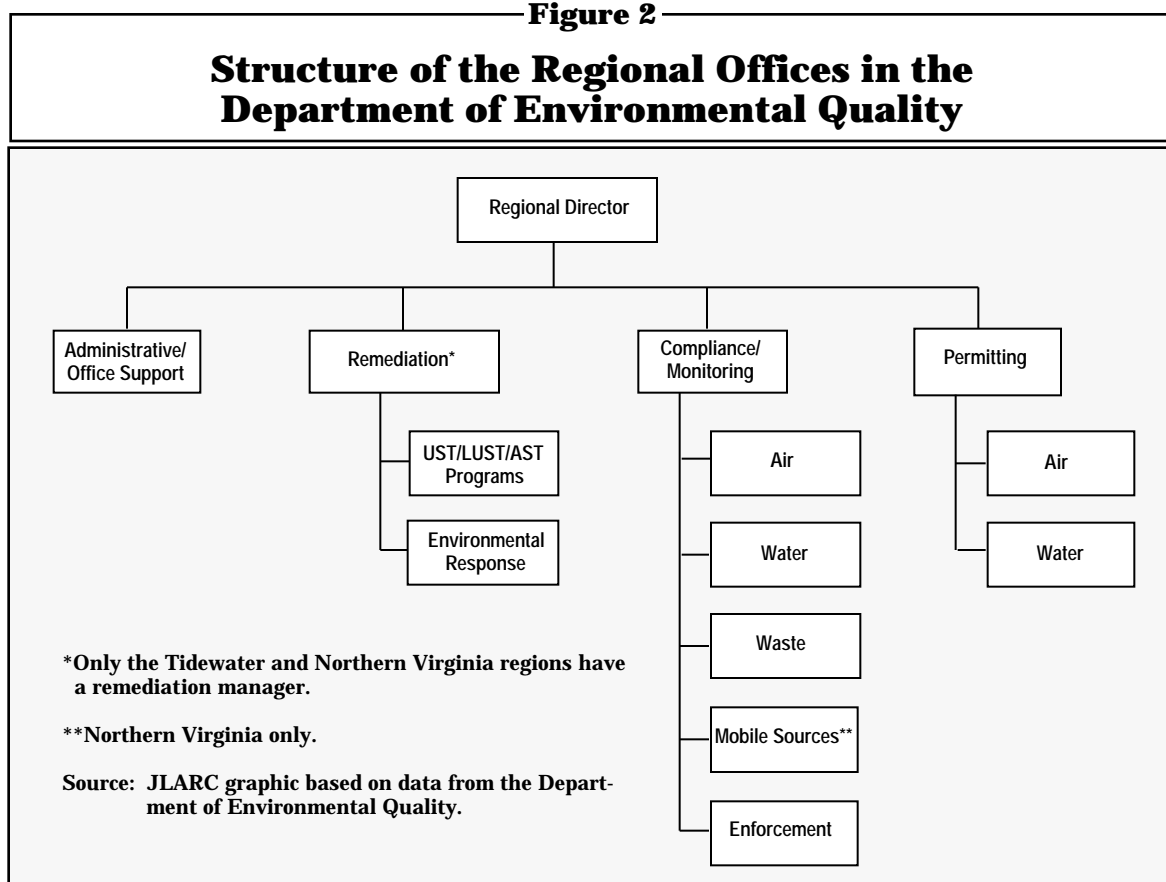
The second major action taken by the new director was to begin the reorganization in the regions. The director created six “super” regional director positions. The individuals hired for these positions would oversee the air, water, and waste issues for the regions they were assigned to. The number of DEQ regions also decreased from seven to six, and the goal was set to reduce the number of DEQ offices from 15 separate regional offices to six regional offices and three satellite offices. The new DEQ director also reorganized part of the regional structure by function instead of the traditional organization by environmental medium. Both of these changes in the regions were designed to help DEQ better serve the agency’s “customers.”

### **Consolidation of Regional Offices Has Begun but Is Not Complete**

The new director of DEQ wants the regions to be the focus of DEQ’s activities. He believes that efficiently functioning regional offices are fundamental to the success of DEQ, because it is in the regional offices where the agency’s clients are served. The agency’s clients are viewed as both citizens and the regulated community. Agency management indicated that there is a new emphasis on responsiveness to the regulated community. To accomplish the goal of serving DEQ’s customers more efficiently and effectively, initiatives have been made to consolidate regional offices, appoint one director per region, and organize the regional offices by function.

***Appointment of Six Regional Directors.*** One of DEQ’s current objectives is to empower the regional offices. DEQ began this process by consolidating regional operations in September 1994. When regional offices were organizationally consolidated, six new regional directors were appointed to oversee all media in the regional offices. The six new regional directors replaced the previously existing 15 regional directors. Each of the six newly chosen regional directors had been a regional director for one of the media (four had been air regional directors and two had been water regional directors). All of the newly appointed regional directors are long-time State employees, having between 15 and 30 years of State service each.

***Reorganization by Function.*** As part of the overall DEQ reorganization, the regional offices were restructured around functional lines: compliance/monitoring, permitting, and in some cases remediation. This organization replaced the previous media-based organization where separate offices were maintained for air, water, and waste. Figure 2 shows the current organization of a DEQ regional office.



This change in organizational structure for the regional offices was deemed an effective way of better serving the regulated community by DEQ management, because members of the regulated community often require permits or some other type of assistance that involves more than one medium. Organization by function was also seen as a method of encouraging staff to work together to help create solutions for problems that exist across media. DEQ management also has a long-term goal that, with sufficient cross-training, permit writers and inspectors will be proficient in more than one medium so that staffing will be more flexible, and therefore, more efficient.

***RFPs for New, Consolidated Office Space.*** As of July 1995, all fifteen regional office locations remained in operation, although they have been consolidated into six regions for reporting purposes, with as many as four offices reporting to one regional director. Four DEQ regions whose staff are spread out among several offices have issued RFPs for leased space to consolidate the given region into one facility, but they have not yet moved into new offices. These regions do not expect this consolidation process to be complete until the Summer of 1996, at the earliest. Even after the six regions are consolidated, the three satellite offices in Fredericksburg, Kilmarnock, and Lynchburg will remain open (Figure 3). The DEQ Abingdon regional office staff moved into a consolidated office on August 1, 1995.

**Figure 3**

<b>DEQ Regional Offices</b>		
<i>DEQ Region</i>	<i>Current Offices</i>	<i>Planned Consolidation Date</i>
Tidewater (to consolidate in VA. Beach)	Virginia Beach—Air Virginia Beach—Waste Chesapeake—Water	Summer 1996 Summer 1996 Summer 1996
Piedmont	Richmond (Innsbrook)  Kilmarnock	Consolidated 1993, but staff will move to new office space by January 1, 1996  Will remain open
Valley (to consolidate in Bridgewater)	Bridgewater (staff located in two different, nearby buildings)	Summer 1996
Northern Virginia (to consolidate in Woodbridge)	Springfield—Air Fredericksburg—Air Lorton—Mobile Site Woodbridge—Water	Summer 1996 Will remain open Summer 1996 Summer 1996
West Central (to consolidate in Roanoke)	Roanoke—Air Roanoke—Water Roanoke—Waste Lynchburg—Air	Summer 1996 Summer 1996 Summer 1996 Will remain open
Southwest	Abingdon (all media)	Consolidated August 1995
Source: JLARC staff interviews with DEQ regional directors and director of administration.		

**Piedmont regional office staff have been located in a single facility since 1993, but since July 1995 staff have only occupied 25 percent of the office space being leased at the Innsbrook office park in Henrico county. The office space became 75 percent vacant due to several factors including vacancies created by the WTA and layoffs. However, the primary factor contributing to the vacancy was the move of all headquarters' staff from Innsbrook to DEQ's office space in downtown Richmond. This move was initiated by the director because he wanted all headquarters' staff at one location. An area business has agreed to take over the lease of all the Innsbrook office space starting January 1, 1996. DEQ would still hold the lease on the warehouse space they have at Innsbrook. The agency is planning to have the warehouse space converted to office space for the Piedmont staff who will be displaced by the sublease.**

### **REGIONALIZATION OF AGENCY PROGRAMS AND DOWNSIZING OF AGENCY STAFF**

**The third phase of DEQ's reorganization began in April 1995 and is ongoing. This phase of the reorganization continued decentralization of the agency's programs and**

responsibilities to the regional offices. In addition, during this phase of the reorganization substantial staff reductions occurred. The agency also has been reviewing its regulations and permitting processes as part of a general restructuring of the way that the agency carries out its responsibilities.

In April 1995, DEQ's headquarters reorganization plan was announced. The reorganization plan indicated that DEQ intended to achieve the following by reorganizing and downsizing headquarters staff:

- empowerment of the regional offices,
- substantial reductions in headquarters staff,
- cross-training technical employees,
- re-examining the agency's regulations,
- privatizing some of the agency's functions, and
- establishing quantifiable performance measures.

Since the reorganization plan was announced in April 1995, DEQ has conducted reviews of its regulations and its permitting process with an eye towards streamlining both. In addition, since the April reorganization was announced, DEQ management has continued to decentralize programs to the regional offices. In addition, DEQ required all employees to complete a "competition survey," which asked employees to identify ways to make DEQ more efficient and effective, such as privatization of existing programs or transfer of responsibilities to other agencies.

### **Downsizing Has Substantially Reduced Agency Staff**

DEQ management and the Secretary of Natural Resources argue that there should have been savings realized from the elimination of duplicative positions when DEQ was created. To this end, the 1995 Executive Budget proposed to reduce DEQ's maximum employment level (MEL) from 1,034 to 793. This was approved by the 1995 General Assembly. Like most State agencies, DEQ actually functioned with fewer employees than the agency MEL. Consequently, agency management staff estimated the needed staff reductions at approximately 120. An executive branch hiring freeze led to some staff reductions at DEQ through attrition as most positions that became vacant were not refilled.

In order to further downsize DEQ's workforce, the April 1995 reorganization involved the layoff of 17 employees. An additional 71 DEQ employees accepted the voluntary separation component of the Workforce Transition Act (WTA). In all, 88 employees left the agency voluntarily or involuntarily during the April reorganization (Table 1). One employee had been laid off in October 1994 and an additional two employees were laid off in August 1995. DEQ's human resources officer stated that the agency's staffing level as of October 1, 1995 is 651 full-time classified employees and approximately 62 non-classified (primarily wage) employees.

**Table 1**

**Impact of April 1995 Layoffs and WTA  
on DEQ Divisions and Regions**

<i>Division/Region</i>	<i>Number of Layoffs</i>	<i>Number of WTA Voluntary Separations</i>	<i>Total Number of Staff Reductions</i>
Human Resources	2	3	5
Public Affairs	1	4	6
Enforcement	0	1	1
Policy	1	5	6
Administration	1	6	7
Water Division	7	20	27
Waste Division	2	10	12
Air Division	4	6	10
Regional Offices	<u>0</u>	<u>15</u>	<u>15</u>
<b>Total</b>	<b>18</b>	<b>70</b>	<b>88</b>

Note: One additional public affairs staff member had been laid off in October 1994; One additional enforcement staff member and one additional water division staff member were laid off during the summer of 1995 as a result of program decentralization.

Source: JLARC analysis of DEQ listing of individuals who were laid off or accepted the WTA.

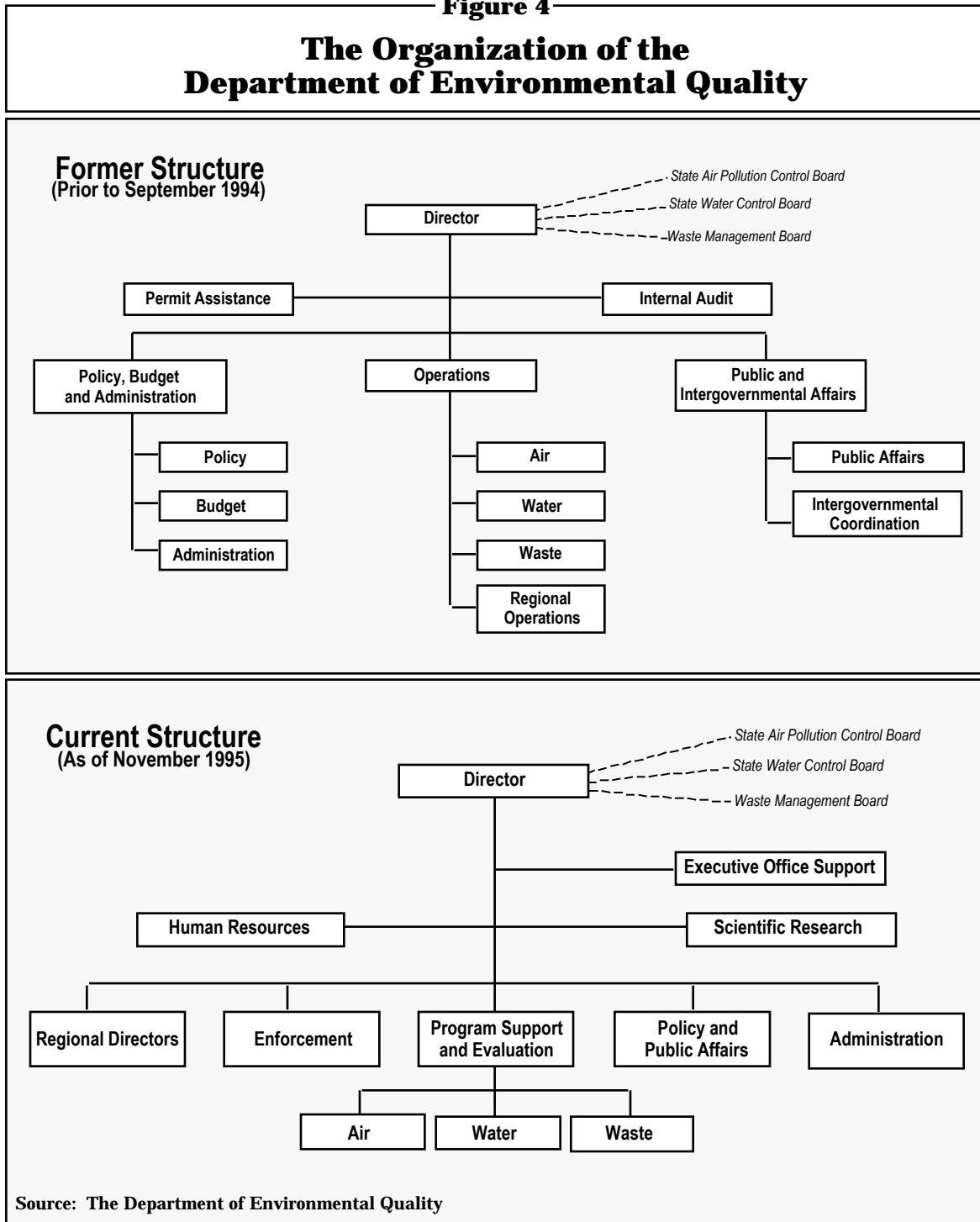
During early interviews with JLARC staff, the Secretary of Natural Resources indicated that most of DEQ's reorganization was completed. However, interviews with DEQ's management indicated that future reductions may occur in some areas through privatization or out-sourcing — for example, through a State contract with a private provider who will perform the service for a price. Figure 4 shows the organizational structure of DEQ before and after the agency's latest reorganization.

***Substantial Staff Reductions Occurred as a Result of the 1995 Budget Process.*** The 1995 executive budget requested that DEQ's MEL be reduced from the 1,034 positions approved for FY 1996 by the 1994 General Assembly to 793 for FY 1996, a reduction of 241 positions (Figure 5). This proposed reduction was approved by the 1995 General Assembly. However, most of these positions were vacant. For example, the 104 positions deemed necessary to implement the federally-mandated Title V air quality program were never filled. The 241 position reductions included:

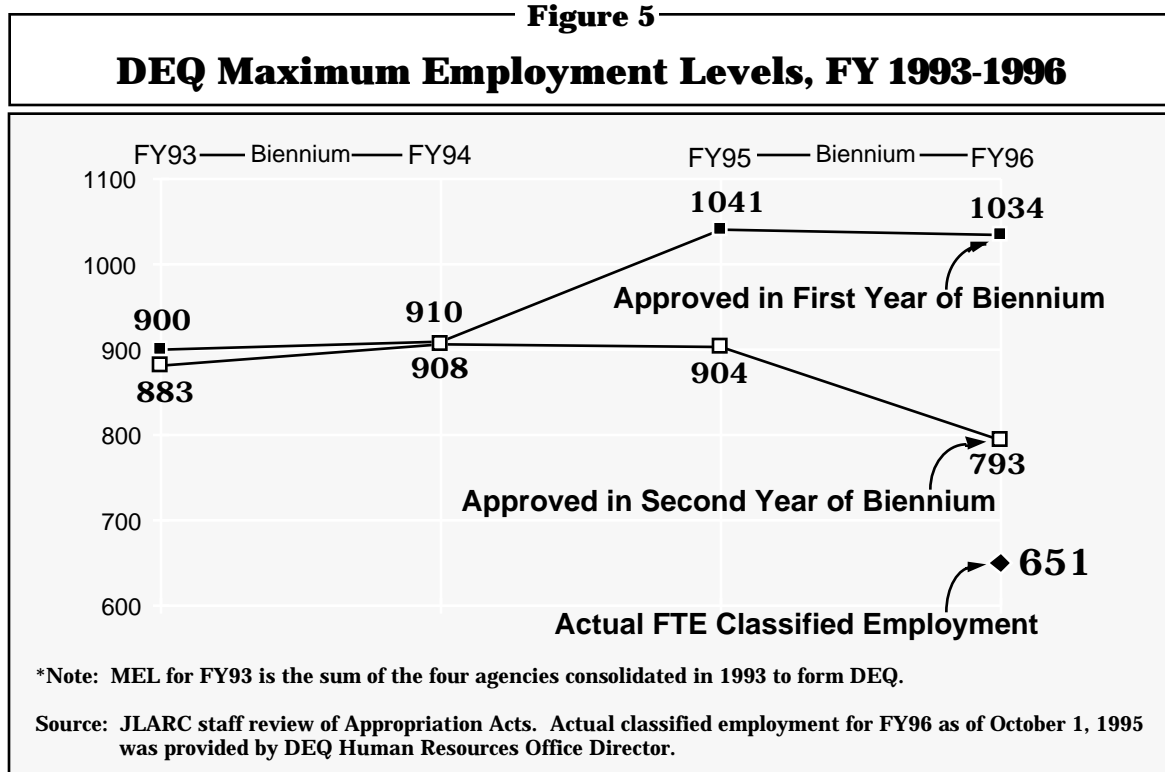
- 104 positions for implementing the Title V air quality permit program,
- 45 administrative and overhead positions in the central office,
- 49 permitting positions in the central office,
- seven emergency response positions,

- four oil response positions in the central office,
- 15 storage tank management positions in the central office,
- five enforcement positions in the central office,
- two monitoring and evaluation positions in the central office,

**Figure 4**  
**The Organization of the Department of Environmental Quality**







- one public relations position in the central office,
- three policy positions in the central office, and
- six research and planning positions in the central office.

***Seventy-one DEQ Employees Voluntarily Left Under the Workforce Transition Act.*** The 1995 General Assembly approved the Workforce Transition Act of 1995 (WTA). This statute (Chapter 811, *1995 Acts of Assembly*) contained a one-time voluntary separation component, through which State employees received financial incentives to voluntarily separate from employment with the Commonwealth. As noted earlier, 71 DEQ employees accepted this voluntary separation. The WTA generally restricts agencies from filling positions vacated by these employees. In addition, the act requires agencies to fund the severance costs out of the current biennium's appropriation. Severance costs under the WTA include:

- two weeks pay per year of State service, with a minimum payout of four weeks pay and a maximum payout of 38 weeks pay;
- payment for accrued leave in accordance with State policy;
- up to \$5,000 in lieu of unemployment compensation; and
- continuation of the State's share of employee health insurance for one year.

***Twenty DEQ Employees Have Been Laid Off.*** As of October 1, 1995, one DEQ employee had been laid off in October 1994, 17 DEQ employees had been laid off in April 1995, and two employees had been laid off in August 1995. At present, laid off employees are entitled for a period of one year to preferential hiring for positions within the agency which become vacant. Five of these employees had been recalled to positions at DEQ as of October 1, 1995, one employee found a position with another State agency, and one employee retired.

### **DEQ Is Reviewing its Regulations and Permitting Process**

DEQ is reviewing all of its regulations as a result of the Governor's directive in Executive Order 15 (1994) that "state agencies conduct a comprehensive review of all existing regulations, to be completed by January 1, 1997." The purpose of this review is to ensure that:

- regulations are tailored to "achieve the least possible interference in private enterprise and the lives of Virginia's citizens;"
- no regulation remains "in effect if there are less burdensome or less intrusive alternatives available that will satisfy any applicable state or federal legal requirement;"
- regulations will be regularly reviewed; and
- regulations are "clearly written and easily understandable by the individuals and entities affected."

This comprehensive review of regulations was recommended by a subcommittee of the Governor's Commission on Government Reform. DEQ's director stated in an interview with JLARC staff that DEQ staff have completed the first half of the regulatory review and the recommendations have been submitted to the Secretary of Natural Resources' office.

DEQ has also formed three internal task forces to study the permitting process and ways to speed up the processing of permits. These task forces originally caused some media controversy, as they were created with representatives from industry, DEQ, and local government officials, but without representatives from environmental or citizen groups. Representatives from these groups were later invited to participate.

Review of the permitting process is now complete, and an interim report has been released on the work groups' recommendations. Some of the proposed changes include: eliminating the need for "non-essential information" from the permit applicant, requiring that the Public Notice Authorization for VPDES and VPA permits be submitted with the permit application, and holding a meeting between DEQ and the applicant to discuss the application when it has reached the 50 to 75 percent review stage. All the proposed changes appear to be targeting a reduction in the time it takes to issue permits.

## **DEQ Is Continuing Decentralization of Programs**

DEQ's director has delegated most permitting and inspection decisions to the regional directors. Permits that once had to receive final approval from headquarters now only require the signature of the regional director. According to the DEQ director, the role of headquarters has been redefined from command and control to technical assistance and administrative support. The regional directors can now approve all permits for air and water, except for water permits that go before a public hearing. In such cases, the State Water Control Board must also approve the permit. Headquarters staff still handle waste permitting, and according to DEQ management there are no immediate plans to transfer this function to the regions.

The authority to inspect waste sites, previously handled by headquarters staff in four of the six regions, has also been delegated to all the regions. In order to accommodate this new responsibility, each region has been provided with positions for a waste supervisor and waste inspectors.

Regional enforcement powers were considerably enhanced in the regions in July 1995 when the regional directors were given the authority to handle all enforcement issues including the issuance of civil charges to violators of the State's environmental regulations. Previously, headquarters had held primary responsibility over enforcement issues. As a result of the regionalization of enforcement, 27 headquarters enforcement positions were eliminated. New enforcement positions were created in headquarters (six positions) and in each region. Twenty-six of those whose positions were eliminated in headquarters transferred to the regions or found another position in headquarters. One individual was laid off. A draft proposal of how regionalized enforcement will be handled was created in August. These guidelines are supposed to be finalized in the fall of 1995.

In September, the Virginia Water Protection Permit Program was also regionalized. As a result of the regionalization, six headquarters' positions were eliminated. Three of these employees relocated to the regions, two found other positions at headquarters, and one staff member was laid off. Regional offices which are expected to have a significant workload for this program will be given additional staff. Other regions with less extensive workloads will manage the program with existing staff.

## **DEQ's Competition Program Asks Employees to Examine Their Functions for Possible Privatization, Out-Sourcing, or Discontinuation**

As noted in the previous section, DEQ is examining opportunities for privatization. This is part of the Executive Branch's newly implemented performance budgeting system. Executive Memorandum Three (1995) directed all State agencies to implement a zero-base approach to budgeting, in which previous levels of funding will not be considered as a justification for funding in subsequent budget years. All programs and functions are to be scrutinized to see if they can be eliminated or privatized. DEQ is using what the director of DEQ calls the "competition model" to accomplish this goal. This model consists of a decision tree which guide staff to what the ultimate outcome of their

**position or program should be (Appendix B). Assuming that a program or function is not zero funded as a result of applying the competition model, budget decisions are to be made based on workload and performance measures. The agency is currently developing performance indicators as part of its 1996-1998 budget proposal to the Governor and the Department of Planning and Budget.**

**Employees received the competition model form August 1, 1995, and they were asked to return the form to the director by August 14, 1995. The first component of the model requires the employee to chart their program or function to see if the position or program could be eliminated, out-sourced, transferred to the regulated community, or performed by another agency. The second part of the form consists of a job analysis form. This form asks that employees answer questions about their duties, priorities, resource needs, and list ways their jobs could be improved.**

**The director of DEQ stated, in an interview with JLARC staff, that he and a few others will review the responses as soon as possible. He stated that his main objective with the model is to help find the best possible way to allocate resources at DEQ. He stated that he does not anticipate that most functions at DEQ will be out-sourced or privatized as a result of the model. As of November 14, 1995, no decisions had been publicly announced regarding the outcome of the analysis using the competition model.**

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### **III. DEQ Reorganization Issues**

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DEQ's reorganization remains a work in progress. DEQ's reorganization appears to have succeeded in the agency's stated goals of downsizing staff and increasing the authority of the regional offices. However, three concerns have been identified regarding the reorganization at DEQ. First, the reorganization does not appear to have been supported by a sufficient degree of analytical and strategic planning. Second, the reorganization process at DEQ has raised personnel management concerns including concerns about agency hiring practices, employee morale, and employee trust in management. Third, while most DEQ employees believe that the agency is becoming more customer-service oriented and the regional offices have more power, a plurality of DEQ staff have concerns about whether the reorganized department will be more efficient and effective than the previous department and whether the department will be able to maintain environmental quality.

This interim review provides information on issues surrounding the DEQ reorganization process and its impacts on employees. These issues will be considered again and updated information will be provided in the next phase of this review. However, the primary focus of the next phase will be an overall assessment of the reorganized department's environmental programs.

#### **PLANNING FOR DEQ'S REORGANIZATION HAS BEEN INADEQUATE**

DEQ's current management faced the challenge of managing and directing an agency that had not yet been fully developed as an organization. However, in attempting to address this challenge, the agency's current management has paid insufficient attention to long-range planning and systematic analysis. In addition, it is difficult to determine the rationale and analytical processes used by the agency's management in making decisions about staffing cuts. The lack of systematic planning underlying the reorganization makes it difficult to assess: (1) the degree to which DEQ management expects to make further organizational changes, and (2) the degree to which the agency's authorized staffing level is adequate to effectively carry out its environmental programs.

#### **Employee Task Group Made Initial Recommendations to DEQ's Current Management for Improving the Agency**

When the current DEQ director took office, he convened a task force of DEQ employees to make recommendations about improving the agency's effectiveness and efficiency. This task force consisted of employees from the agency's headquarters and three staff members from the Tidewater Regional Office (each of whom was then a regional director for one of the environmental media). The task force's report is a five-page document that includes 24 recommendations. The report is a listing of employee

suggestions and is not an implementation plan and does not explain any of the recommendations in detail.

The complete task force report is included as Appendix C. Major recommendations included:

- establishing a DEQ strategic plan;
- eliminating the air advisory board in favor of a new DEQ advisory board with a multimedia focus;
- evaluating the number of regions needed and exploring use of satellite offices where minimum DEQ presence is needed;
- consolidating central office employees in one building;
- allowing regional directors, office directors, and the DEQ director of human resources to give final approval of personnel actions;
- reviewing regulations for duplication;
- cross-training employees;
- decentralizing decisionmaking to regions and realigning headquarters to provide technical support to the regions;
- increasing the agency's use of technology;
- getting employee's to "buy-in" to the agency's reorganization; and
- delegating authority for resource allocation and budget preparation to the budget director.

DEQ has implemented some of the recommendations from the task force report, such as consolidating headquarters staff in one building, decentralizing decisionmaking to the regional offices, and revising regional boundaries. Other major recommendations that appear to be useful have not been implemented. For example, the agency has not prepared a strategic plan, the budget director position has been eliminated rather than assigned the responsibility envisioned in the report, and personnel decisions are now often referred to the Office of the Secretary of Natural Resources for approval rather than being made at the office director or regional director level. While the agency head is under no obligation to implement employee suggestions, it appears that this task force report is the only formal planning document of any type prepared by DEQ of its own volition. As such, the task force report is lacking in specific rationales or analytical support for most of the recommendations offered, estimates of resources required to implement the suggestions, and actions needed to implement the suggestions.

### **DEQ Reorganization Plan to Meet Appropriation Act Requirements Provides Only an Outline of Proposed Changes**

The 1995 Appropriation Act directed DEQ to provide the General Assembly's natural resources and appropriations committees with a copy of a reorganization plan prior to implementing any reorganization. The 1995 Appropriation Act stated:

**Before implementing any reorganization plan, [DEQ] shall provide copies of the plan to the Chairmen of the House Conservation and Natural Resources and Appropriations Committees and the Senate Agriculture, Conservation and Natural Resources and Finance Committees. The plan shall include, but not be limited to, the division of responsibilities between the regional offices and the central office, the number of positions and operating resources necessary and available to each, and the performance measures to be used in determining the plan's success.**

The agency's reorganization plan, as transmitted to the General Assembly in April 1995, is shown in Appendix E. This plan lists staff reductions and some general principles (such as regional empowerment and improved training). The plan does not provide analysis to support the proposed changes or estimate resources needed to implement these changes. The plan is also described as "implementing the final step of [DEQ's] reorganization."

However, the agency has made several additional, significant organizational changes since transmitting the reorganization plan to the General Assembly in April 1995. These changes include:

- decentralization of the agency's enforcement program,
- decentralization of the Virginia Water Protection Permit Program,
- implementation of a new personnel system for the agency that eliminates pay grades and position classifications and establishes a new mechanism for performance evaluations.

The agency is also contemplating additional changes such as the privatization of programs (based on the competition model) and further decentralization of programs. The degree of changes implemented since the announcement of the April 1995 reorganization plan calls into question the adequacy of planning for the April reorganization.

### **DEQ's Staff Reductions Do Not Reflect Systematic Analysis**

JLARC staff asked, on two occasions, for copies of any analysis conducted by DEQ in determining which positions to eliminate in the agency. This request was in response to the agency director's statement to the General Assembly's natural resources

committees that “each of these positions (eliminated) was carefully examined as they related to our reorganization plan. In all instances, the activities performed in these positions were determined to be redundant.” DEQ did not provide any documentation of its rationale for making layoff decisions (other than the general statement that eliminated positions were redundant). Absent any written analysis of the redundancy of these positions, it is difficult to verify the assertion made that each of these positions was redundant.

However, JLARC staff identified several aspects of the process used in determining positions to eliminate at DEQ that suggest all positions eliminated were not carefully analyzed. These are as follows.

- The agency accepted all applicants for the Workforce Transition Act (WTA). Employees leaving under the WTA did not reflect agency determinations of redundancy of their positions. Instead, employees determined whether they wished to continue in State service at that time or accept a financial incentive to leave State service.
- According to DEQ supervisors, the agency’s management did not consult them in determining whether such layoffs were appropriate.
- The agency, in at least two instances, has been adding staff in areas where position reductions occurred.
- The agency has existing management positions, created by the present agency head, that appear to be redundant.

***All DEQ Applicants for the Workforce Transition Act Were Accepted.***

The DEQ director accepted all 71 agency applications for the voluntary separation component of the WTA. The WTA gave agency heads the ability to deny voluntary separation to employees whose functions were deemed to be critical. Statewide, approximately 1,000 applicants for the WTA were denied voluntary separation benefits under the act. The Governor subsequently established an appeal mechanism for employees whose applications for voluntary separation were denied, but approximately four-fifths of the denials were upheld upon review by the director of the Department of Employee Relations Counselors.

DEQ’s decision to accept all 71 applications for the WTA seems inconsistent with the statement that all positions eliminated in the agency were determined to be redundant. Employees’ desire to take voluntary separation was influenced by several factors, including perceptions of job security, personal financial circumstances, employment prospects outside of State government, and proximity to retirement. It is unlikely that all 71 DEQ employees who chose voluntary separation happened to occupy 71 of the 122 positions deemed redundant during the April reorganization. This is particularly true given that 15 of the 71 WTA positions were located in DEQ’s regional offices, which have since identified significant staffing needs.

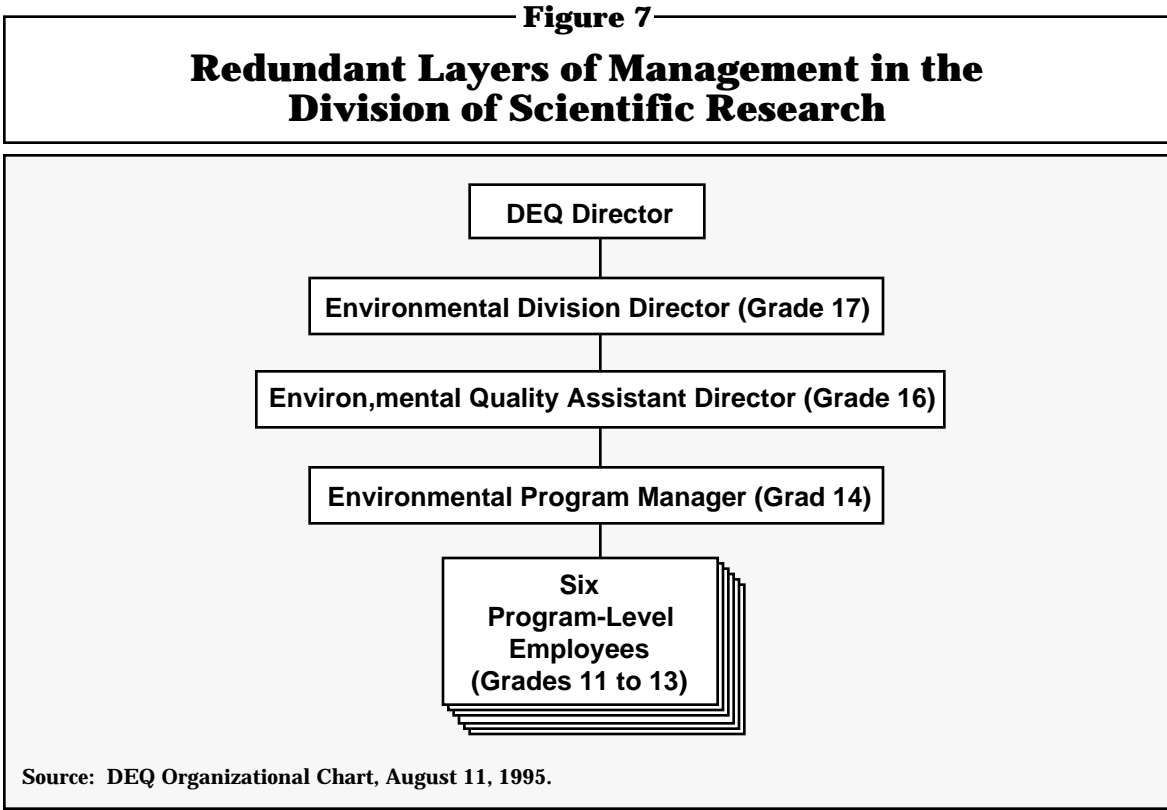
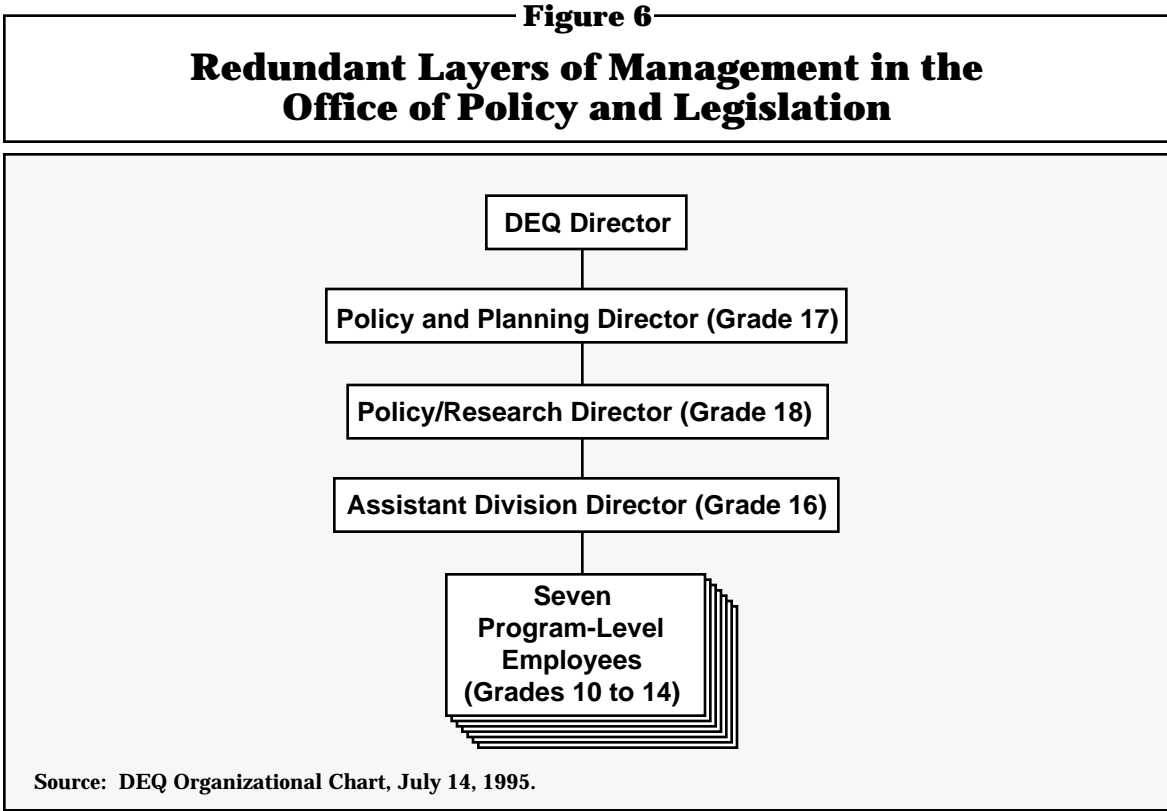


***Supervisors of Laid-Off Employees Were Not Consulted in Making Layoff Decisions.*** Supervisors of DEQ employees who were laid off indicated to JLARC staff in interviews that they were not consulted about whether the position in question was redundant. Based on JLARC staff interviews with DEQ management, it appears that only the division director level of staff were consulted about which positions should be eliminated. This consultation took place during a meeting of the DEQ division directors. During this meeting, division directors were presented with a list of positions to be eliminated in their section and were asked to comment on it. Other DEQ line managers and supervisors were not involved in any formal analysis of redundant positions. Several supervisors indicated that they were given responsibility for informing one or more employees that they had been laid off, but they had not participated in the decisionmaking process for the layoffs and did not fully understand or agree with the layoff decisions.

***DEQ is Adding Positions in Some Areas Where the April Reorganization Reduced Staff.*** JLARC staff identified at least two instances in which DEQ is adding staff in areas where positions were eliminated in April 1995. In the Office of Human Resources Training Section, the agency eliminated three of the five positions. However, the agency has detailed one of the director's assistants into the section to coordinate the training program and the "dual career track" program. DEQ reduced its staff in the Division of Administration by 13 positions in April 1995, including a vacant buyer senior position. After a Division of Purchases and Supply audit was critical of the agency's procurement practices and staffing, the agency re-established two buyer senior positions and a buyer manager position.

***Some DEQ Management Positions Appear to be Redundant.*** The agency's management has indicated that eliminating redundant positions and layers of management is a high priority. However, in at least two instances the agency has established seemingly redundant layers of management. In the Policy and Legislation Office, the agency added a grade 16 level manager (an assistant division director), who supervises the office's staff and reports to the office director, a grade 18. The grade 18 position in turn reports to the Director of Policy and Planning. In all, there are three layers of management between seven employees in the Policy and Legislation Office and the agency head (Figure 6). The grade 16 position was apparently added without consulting the office director, and the office director took no part in the hiring or recruitment for the position. At least in terms of span of control and management responsibilities, it appears difficult to classify the assistant division director position as anything but redundant. The position's non-management responsibilities appear to be related to providing staff support (such as speech writing and participating in interview panels) to the Secretary of Natural Resources as well as to the agency head. These duties could be accomplished by a non-managerial position.

A similar situation appears to exist in the agency's Division of Scientific Research. The Division consists of nine staff members, but it also has four layers of management. The six staff level members report to a grade 14 position, which in turn reports to a grade 16 position, which in turn reports to a grade 17 position, which in turn reports to the agency head. This division is shown in Figure 7.



## **DEQ Lacks Long-Range Strategic Planning**

Bryson's (1988) *Strategic Planning for Public Organizations* defines strategic planning as "a disciplined effort to produce fundamental decisions and actions that shape and guide what an organization (or other entity) is, what it does, and why it does it." DEQ's current director indicated in an interview with JLARC staff that he does not believe that strategic planning is a useful exercise. Consequently, despite having a significantly smaller staff and different management focus, DEQ has made no effort to up-date the strategic plan for the agency developed by the Secretary of Natural Resources in 1992. Some general goals of DEQ management's current emphasis are clear: reduced agency staff, regional empowerment, cross-training of staff, and improved customer service. However, absent a strategic plan, it is not clear how these general goals will be translated into a more effective, efficient organization in the long term. DEQ is required by the statute that created it to "establish procedures for, and undertake, long-range environmental program planning and policy analysis." This statutory mandate could be addressed in a comprehensive manner as part of an agency-wide strategic plan. DEQ should implement the recommendation of its internal task force to develop an agency-wide strategic plan. This plan should focus on implementing the agency's statutory responsibilities, management's priorities for the agency, and long-range environmental planning. The DEQ competition program, conducted during the summer of 1995, provides a potential source of data for developing the strategic plan.

***Recommendation (1).* The Department of Environmental Quality should develop an agency-wide strategic plan. DEQ should use data from its competition program, statutory requirements, and long-range environmental planning and policy analysis in developing its strategic plan.**

## **DEQ's Plan for Implementing the Title V Air Permitting Program is Uncertain**

Title V of the 1990 Clean Air Act requires states to develop programs for issuing operating permits for certain stationary sources of air pollution. Previously, the air permitting program had been confined to construction permits, issued only when a source of air pollution was about to be constructed. Operating permits will involve reissuing a permit every five years to applicable sources of air pollution.

As of mid-November 1995 it was not clear what approach the Commonwealth will take in implementing its Title V program. The State is currently involved in litigation with EPA regarding the legal standing of private citizens to sue to challenge Title V permits issued by DEQ. Irrespective of the outcome of the litigation regarding the standing issue, however, DEQ will need to implement the Title V program. The only other alternative would be to have EPA administer the program for the State, and the administration has indicated that this is not an acceptable option.

Implementation of Title V involves significant resources. The General Assembly increased DEQ's maximum employment level by 104 positions to accommodate Title

V workload. However, these positions were eliminated by the 1995 General Assembly, pending a final decision on how to implement the Title V program. DEQ is considering contracting out much of the workload for Title V, as this workload is expected to be cyclical in nature. Regardless of whether this workload is performed by State employees or contractors, Title V represents a potentially significant resource demand. Some DEQ staff in the regional offices expressed frustration that the agency's plans for implementing Title V had not been articulated in policy. DEQ management point out that EPA's regulations for the Title V program are not expected to be completed until early 1996.

While the State's negotiations with EPA regarding the standing issue may be protracted, it is important to plan for implementing Title V once (and perhaps while) the standing issue is resolved. An important part of planning for implementing Title V is determining the resources that will be required. DEQ should present the Senate Finance and the House Appropriations Committees with its estimate of the resources required to implement Title V prior to the conclusion of the 1996 General Assembly. DEQ should also clarify the extent to which, if any, it intends to contract out aspects of the Title V program.

***Recommendation (2).* The Department of Environmental Quality should develop an estimate of the resources required to successfully implement the Title V air operating permit program. The department should provide this estimate to the chairmen of the Senate Finance and the House Appropriations Committees prior to the conclusion of the 1996 General Assembly.**

### **DEQ PERSONNEL MANAGEMENT AND EMPLOYEE MORALE HAS BEEN PROBLEMATIC**

JLARC staff's review of DEQ's reorganization identified concerns with the agency's personnel practices and with employee morale and trust in agency management. Concerns regarding personnel management include use of inappropriate interview questions, questionable use of wage employees, the involvement of the Secretary of Natural Resources in agency hiring, and a perception among agency employees of favoritism in the agency's hiring. Regarding morale, employee morale appears to be very low throughout the agency, and trust in agency management is also low. These concerns were identified using a variety of research methods, including:

- a mail survey of 145 DEQ employees,
- interviews with DEQ management and staff,
- a review of selected DEQ personnel records, and
- a review of DEQ's organization charts.

#### **Certain Agency Hiring Practices Are Questionable**

This review has identified a number of concerns about the agency's hiring practices. These concerns included use of inappropriate interview questions, use of

highly compensated wage employees to fill senior positions, involvement of the Secretary of Natural Resources in hiring, and a perception of favoritism by DEQ employees in management's hiring of certain employees.

***Inappropriate Interview Questions Were Used in Recruiting for Several DEQ Positions.*** In interviews with JLARC staff and in survey responses, DEQ employees indicated that applicants for DEQ classified positions had been asked to identify and comment on the Secretary of Natural Resources' five principles for the environment and the Governor's priorities for government reform. Review of recruitment files by JLARC staff indicated that, in fact, these interview questions were used in hiring for at least five DEQ positions: a policy and planning director, the agency's science advisor, a community development manager, an agency lead management analyst, and a budget analyst senior. These two questions were among a total of only six questions that were asked for several of the positions reviewed. The questions were apparently also used in hiring regional managers for compliance and permitting.

DEQ has maintained that employees were not asked to recite these questions from memory, but instead were asked to simply comment on them. However, review of five recruitment files by JLARC staff revealed that job applicants were downgraded by the interview panel if they could not recite the Secretary's principles and the Governor's principles from memory. Conversely, applicants who could recite the Secretary's principles and the Governor's principles received a positive rating. For example, the agency director wrote on his comments regarding one applicant's response to a question about the Secretary's principles: "yes, knows perfectly well." This applicant received a plus mark for his response. Of another applicant for the same position, who did not know the Secretary's principles, DEQ's director of administration wrote "no" and assigned a minus mark next to the question asking if the applicant knew the Secretary's principles.

Use of these two questions, particularly the portion of the questions requiring the relevant principles to be recited, appear to be inappropriate for the hiring of classified positions. Under the Department of Personnel and Training's recruitment policy, the employment panel interview is a competitively rated exercise where the applicant is rated on his or her response to each question, which are to be specifically related to the requirements for the position in question. In addition, these questions may create potential liability for the Commonwealth regarding federal law on equal employment opportunity in hiring. The two questions are not directly related to the specific duties of the positions being applied for. Therefore they potentially do not meet the test for evaluative instruments first developed by the U.S. Supreme Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) and later modified in *Washington v. Davis*, 426 U.S. 229 (1976).

Ability to recite from memory the Secretary's principles for the environment, which were not published in widely promulgated sources, or the Governor's priorities for government reform is not necessarily acquired during a professional career in law, private business, State government, or environmental regulation; nor is their memorization required to successfully demonstrate the knowledge, skills, and abilities of positions such as senior budget analyst, science advisor, or regional permitting manager

(Exhibit 1). In one instance, these questions were not written down as part of the prepared interview questions given to panel members, but were asked at the insistence of the Secretary of Natural Resource's special assistant, who was a panel member.

DEQ denies that these questions were political in nature and asserts that there is nothing wrong with asking them. Also, the Deputy Secretary of Natural Resources has indicated that DPT staff were enthusiastically supportive of using these questions. However, DEQ's argument that the questions are not political in nature is difficult to reconcile with the agency's objection to disallowing the questions. DEQ has stated that disallowing this type of question "would complicate and retard the translation of the results of elections into government programs." This argument appears to be an implicit admission by DEQ that the inappropriate interview questions were consciously political in nature.

DPT should clarify its policy on what interview questions may be considered job-related. The policy should explicitly indicate that it is inappropriate to use non-job

— Exhibit 1 —

**Information Asked on Selected DEQ Interview Questions**

*The Governor's Four Priorities for Government Reform:*

- Restoring Citizen Ownership to Government
- Developing a Customer Service Oriented Government
- Engendering a Sense of Competition in Government
- To Change the Culture of Government Service

*The Secretary of Natural Resources'  
Five Guiding Principles for the Environment:*

- People Are Our Most Important Natural Resource
- Personnel is Policy
- A Growing Economy and a Healthy Environment Are Mutually Dependent
- Renewable Natural Resources Are Inherently Dynamic, Resilient and Responsive to Conservation Management
- Excessive Federal Mandates and Regulations are Injurious to the Environment

Source: Governor's Priorities from Governor's Remarks to the Governor's Commission on Government Reform, April 22, 1994; Secretary's Principles from *Virginia Town & City*, April 1994.

related questions that call for a respondent to provide from memory the philosophy or principles of an elected or appointed official.

***DEQ Made Extensive Use of Wage Employees to Initially Fill Senior Positions.*** At the beginning of the current director's tenure, DEQ made extensive use of wage employees to fill senior positions. Positions filled using wage employees included senior management positions such as division directors, a director of policy and planning, and a budget manager (Table 2). DEQ states that these individuals, three of whom were hired at the direction of the Secretary of Natural Resources, were hired only to make policy recommendations and did not have line supervisory responsibilities. However, the extensive use of highly compensated wage employees raises concerns about noncompetitive hiring and undercutting the authority of line managers. The appropriateness of assigning temporary wage employees to senior management titles and high levels of compensation on a systematic basis, particularly at the change of administrations, is an issue for the General Assembly to address.

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**Table 2**

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**DEQ Wage Employees Making Over \$15/hour  
(since June 1, 1995)**

<i>Employee Title</i>	<i>Wage</i>	<i>Current Status of Employee</i>
Division Director	\$31.41/hour	No longer with the agency
Division Director	\$32.84/hour	Classified employee (Director, Office of Spill Response and Remediation)
Division Director	\$31.41/hour	Classified employee (Director, Policy and Legislation)
Division Director	\$30.71/hour	Classified employee (assistant division director)
Policy and Planning Director	\$29.38/hour	Classified employee (community development director)
Admin. Support Coord.	\$21.03/hour	Classified employee (agency lead management analyst)
Budget Analyst	\$16.83/hour	Classified employee (budget analyst senior)
Accounting Manager C	\$27.48/hour	No longer with the agency
Budget Manager	\$19.24/hour	Still a wage employee (in director's office)

Source: JLARC staff review of DEQ personnel files, list of wage employees provided by DEQ.

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Since June 1, 1994 DEQ has hired nine wage employees at salaries of greater than \$15.00 per hour. The average compensation for these employees was \$26.70 per hour. According to DEQ human resources staff, salaries for these positions were set by the Office of the Secretary of Natural Resources, which is not the standard agency procedure for hiring wage employees. Six of these nine wage employees have subsequently been hired in full-time, classified positions. Five of these employees were selected for classified positions on the same day.

At present, State policy regarding temporary employees is established in DPT policy 2.20, not statute. The policy on wage employees was first developed by DPT in 1986, in response to Senate Joint Resolution No. 128. The policy was modified in 1988, based on recommendations from the House Appropriations Subcommittee on Compensation. DPT's policy generally states that "wage employees...are used to supplement the work force during seasonal or temporary workloads, to provide interim replacements, or to perform short-term projects or other jobs that do not require full-time, classified employees." The current DPT policy does not expressly forbid wage employees from functioning in supervisory or management positions. The only limits established on wage employees by the current policy are:

- a wage employee may work no more than 1,500 hours per 365-day period (the first such period begins at the employee's starting date; cabinet secretaries are authorized to approve an exemption to this limit);
- the employee must be compensated at one of the steps in the salary grade to which an employee's position is assigned; and
- the employee shall be paid only for hours actually worked.

DPT's policy on wage employees was the subject of a special report by the Auditor of Public Accounts (APA) in May 1995. The APA found that agencies frequently circumvent the 1,500-hour limit for wage employees and recommended that this policy be re-examined. In addition to this concern, the current JLARC review raises the concern of the types of employment and levels of compensation appropriate for wage employees. While DPT policy does not expressly forbid use of wage employees in management or supervisory positions (or even senior management positions), use of wage employees to fill senior positions during the change of agency administrations creates the potential for either circumvention of the competitive hiring process or for de facto political appointments to be made in agencies (wage employees do not have to be hired using the competitive procedures applicable for full-time, classified employees).

Given concerns expressed about the application of the wage employee policy, the General Assembly may wish to request that the Commission on the Management of the Workforce of the Commonwealth (Workforce Commission) make recommendations regarding needed changes to the State's policies for wage employees and consider adopting statutory provisions for the use of wage employees. The Workforce Commission should make recommendations addressing the maximum number of hours wage employ-



ees may work, the types of positions wage employees may fill, and appropriate limits on compensation for wage employees.

***The Secretary of Natural Resources Has Significant Involvement in DEQ Hiring but No Clear Statutory Authority for Such Involvement.*** The *Code of Virginia* (§2.1-114.7) designates State agency heads as the appointing authority for State agencies and forbids the Governor from having involvement in hiring below the agency head level:

**The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies such methods of administration relating to the establishment and maintenance of personnel standards on a merit basis as approved by the Governor for the proper and efficient enforcement of this chapter. But the Governor shall exercise no authority with respect to the selection and tenure in office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.**

The apparent intent of this section is to prevent officials above the agency head from being involved in hiring or firing of agency staff below the level of agency head. This prevents positions below the level of agency head from being considered political appointments at the pleasure of the Governor.

The powers and duties of the Secretary of Natural Resources are defined as follows in §2.1-51.8:1 of the *Code of Virginia*.

- **Resolve administrative, jurisdictional, operational, program, or policy conflicts between agencies or officials assigned.**
- **Direct the formulation of a comprehensive program budget for the functional area identified in §2.1-398 encompassing the services of agencies assigned for consideration by the Governor.**
- **Hold agency heads accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of the agencies.**
- **Direct the development of goals, objectives, policies and plans that are necessary to the effective and efficient operation of government.**
- **Sign documents on behalf of the Governor which originate with agencies assigned to the Secretary.**
- **Employ such personnel and to contract for such consulting services as may be required to perform the powers and duties conferred upon the Secretary by statute or executive order.**

Cabinet secretaries in Virginia have not routinely been involved in personnel matters at the agency head level, with the exception of monitoring agency's equal employment opportunity practices. Notwithstanding the absence of clear statutory authority in personnel matters, during the past 18 months the Secretary of Natural Resources has been actively involved in DEQ hiring. This involvement consists of:

- inclusion of staff from the Secretary's office on interview panels (JLARC staff document this involvement for positions as low as grade 12 but were told that the inclusion of staff from the Secretary's office originally applied to all positions);
- (as already noted) preparation of interview questions by the Secretary's office; and
- approval of all employment offers above grade 13 (as well as intra-agency lateral transfers) by the Secretary's office (even in cases where the agency head has sat in on the interview panel).

Executive Order Thirty-Eight (1994), establishing a hiring freeze in the executive branch, gives cabinet secretaries the role of approving exemptions to the hiring freeze for the agencies within their secretariat. However, once an exemption is approved, it is difficult to determine what involvement of the Secretary of Natural Resources, or staff from the Secretary's office, in the actual interview process or in approving the candidate selected for employment is meant to accomplish. The involvement of the Secretary's office in hiring and other personnel matters led several DEQ employees in interviews with JLARC staff to question the authority of the agency director in managing the agency's internal affairs. In particular, the initial inclusion of staff from the Secretary's Office on interview panels and the submitting of interview questions to be used at DEQ interviews by the Secretary's office as well as the continued routine review of hiring decisions by the Secretary's office potentially undercut the agency head's role as the agency's appointing authority.

The Secretary involvement in hiring has established a clear reporting relationship of the agency head to the cabinet secretary in an aspect of agency management (hiring) where the *Code of Virginia* apparently intends to make the agency head the final authority. While the Secretary could reasonably, given existing statutory authority, hold the agency head accountable for ensuring a representative hiring pool for EEO purposes or for following correct personnel procedure, routine, prospective review of mid-level hiring decisions by the Secretary's office gives the appearance that the Secretary has been tacitly established as the agency's appointing authority for mid-level and senior positions. The DEQ director emphasizes, as does the Secretary of Natural Resources, that none of the DEQ director's decisions have been overturned by the Secretary's office. However, as an employment offer cannot be extended to grade 14 and above hires or transfers until the approval of the Secretary's office is given, there is clearly a reporting relationship in the matter of hiring grade 14 and above positions established whereby the agency head reports decisions to be approved by the Secretary.

DEQ and the Secretary of Natural Resources question whether review of employment offers prior to their being made constitutes approval. JLARC staff obtained documentation where the DEQ director transmitted hiring materials to the Secretary of Natural Resources for “review and approval.” The Secretary of Natural Resources suggests that approval was an inaccurate choice of words by the agency director, although the Deputy Secretary of Natural Resources concedes that the Secretary’s office may also have used the term “approval.”

Significant involvement in personnel matters suggests that the Secretary of Natural Resources is playing a role beyond that of a policy coordinator and is taking on some aspects of a chief executive for DEQ. This would not appear to be in keeping with the legislative intent of cabinet secretaries in Virginia State Government. The General Assembly may wish to clarify the role of cabinet secretaries in agency hiring by amending §2.1-114.7 of the *Code of Virginia*. This section could either be amended to expressly grant cabinet secretaries a role in agency hiring or to expressly forbid cabinet secretaries from becoming involved in agency hiring.

The General Assembly may also wish to address the larger issue of the role of cabinet secretaries in the management of executive branch agencies. Virginia’s cabinet secretaries, since their inception in the early 1970’s, have served as policy coordinators, not chief executives for their agencies. At least in the Natural Resources secretariat, the Secretary is, to some degree, functioning in the role of chief executive officer for DEQ and perhaps other agencies within the secretariat. The General Assembly may wish to consider either reiterating the traditional role of cabinet secretaries as policy coordinators or providing statutory authority to cabinet secretaries to function as chief executives. Cabinet secretaries have existing authority to resolve policy or jurisdictional disputes among agencies in their secretariats. However, they do not have clear authority to be involved in the day-to-day management of their agencies.

***DEQ Employees Expressed Concern About a Perception of Favoritism in Agency Hiring.*** In interviews and in responses to the JLARC survey, DEQ employees expressed frustration at a perception of favoritism in hiring at DEQ, focusing on wage employees who were later hired for full-time positions. One item on the mail survey asked employees to respond to the statement “DEQ employment decisions are based on merit.” Table 3 shows responses to this item; nearly two-thirds (63 percent) of the respondents disagreed with the statement. Only 16 percent of respondents agreed with the statement.

JLARC staff did not find any direct evidence that DEQ classified employees were hired without regard to qualifications solely for reasons of nepotism or political considerations. In fact, DEQ’s regional directors and environmental media division directors are all veteran State employees. However, there are aspects of DEQ’s hiring process for wage employees who later received classified positions that give an appearance of favoritism. Some of the DEQ classified employees who were hired as wage employees initially submitted their applications to the administration’s transition office, not DEQ human resources. High-level DEQ wage employees had their initial compensation set by the Secretary of Natural Resources and this wage compensation was used

Table 3

### DEQ Employee Responses on Hiring

Statement: *DEQ employment decisions are based on merit.*

Strongly Agree %	Agree %	Disagree %	Strongly Disagree %	No Opinion %	Number of Respondents
0	16	37	26	21	127

Note: Percentages may not add to 100 due to rounding; responses from headquarters technical staff have been weighted to produce a stratified sample.

Source: JLARC analysis of DEQ employee surveys (surveys received during September 1995).

as the basis for the employees' compensation as classified employees. As noted previously, staff from the Secretary of Natural Resources office participated in interviews for the positions later filled by wage employees and two questions asked during interviews for the classified positions eventually filled by the wage employees were political in nature. In addition, JLARC staff found that one of the newly created classified positions created and later filled by a wage employee, the assistant division director in policy and legislation, appears to be a redundant layer of management.

To address employee concerns about favoritism in hiring, DEQ management should give careful attention to avoiding any appearance of favoritism in hiring. This should include careful scrutiny of interview questions, the need for newly created positions, and salary offers made to new hires.

***Recommendation (3).*** The Department of Personnel and Training should revise its policy on hiring to clarify what types of job interview questions are not permissible. The policy should specify that questions asking applicants to recite or comment on the philosophies or positions of elected or appointed officials are not permissible.

***Recommendation (4).*** The Commission on the Workforce of the Commonwealth may wish to examine issues related to the State's policies and procedures for hiring wage employees, including: (1) the advisability of limitations on hours worked by wage employees, (2) filling of supervisory or management positions with temporary employees, and (3) compensation of wage employees.

***Recommendation (5).*** The General Assembly may wish to consider amending the *Code of Virginia* to clarify the legal role of cabinet secretaries in agency hiring and other personnel matters.

### **DEQ's Personnel Management Problems Raise Questions About the Desirability of Providing It Authority for Its Own Personnel System**

DEQ management is in the process of implementing an agency-specific classification and compensation system. The agency has named the program the career track program and has received authorization from the Department of Personnel and Training (DPT) to implement the program on a pilot basis. The career track program will initially be applied to all DEQ technical staff. The agency later plans to expand the program, in revised form, to encompass administrative and managerial staff. This program involves:

- **broad-banding technical employees into five levels for purposes of compensation rather than the 23 pay grades used for other executive branch employees;**
- **eliminating existing position classifications for technical employees and instead applying newly developed classifications that correspond to one of DEQ's proposed five levels of pay;**
- **a performance evaluation program that is meant to emphasize technical criteria; and**
- **the possibility of regular reviews for merit or performance pay increases rather than limiting these increases to annual performance reviews.**

DEQ's director indicated that the agency had intended to fully implement the career track program by November 1, 1995. However, the agency has decided to delay implementation of the program temporarily while it incorporates employee suggestions and feedback into the program. The career track program's approach is meant to address several problems the agency's management perceives with the State's current personnel system for executive branch employees. These include:

- **lack of flexibility for agencies to reward superlative employee performance;**
- **the tendency of the State personnel system to compensate employees based on their management responsibilities, thereby requiring technical employees to pursue management jobs in order to receive higher pay; and**
- **concerns about potential disparities among the State's existing position classifications.**

DEQ's perceived problems with the State personnel system and proposed solutions appear to have potential merit. However, DEQ's concerns may be appropriate to address within the context of the overall State personnel system for compensation, classification, and performance evaluation. DPT has approved other pilot personnel initiatives for State agencies, however, it appears that DEQ's initiative may be among the most sweeping in terms of total number of employees affected and percentage of agency staff affected.

Allowing agencies to, in effect, adopt their own personnel systems represents a policy choice for the General Assembly and the Governor. It is advisable for the State to carefully consider a balance between allowing reasonable experimentation by State agencies and preventing a splintering of the State personnel system with each agency essentially implementing its own personnel system. Another concern about the proposed form of the career track is the potential for higher salary costs as a result of the broad banded approach to pay grades and the more frequent opportunity for salary increases. DEQ management estimates that initial implementation of the career track will cost approximately \$250,000.

A final concern with regard to DEQ's career track is the appropriateness of empowering an agency with recent personnel management problems to form its own personnel system. Previous sections of this report have identified problems at DEQ with inappropriate interview questions, questionable use of wage employees, employee perceptions of favoritism in hiring, and inappropriate involvement of the Secretary of Natural Resources in agency hiring decisions. Given these problems, it does not seem advisable for DEQ to implement a career track at this time.

***Recommendation (6).* The General Assembly may wish to amend the 1996 Appropriation Act to prevent DEQ from implementing agency-specific compensation, classification, or performance evaluation policies and procedures. The Department of Environmental Quality should present a proposal for implementing career track to the Senate Finance and House Appropriations Committees prior to the 1997 session of the General Assembly.**

### **Agency Morale Is Perceived as Low by DEQ Employees**

In structured interviews with JLARC staff and in their responses to the JLARC employee survey, DEQ employees indicated that they believe agency morale to be low. Organizational change itself can have a negative effect on morale. However, based on interviews with DEQ staff and review of survey responses to a question asking respondents to list factors affecting their current morale, other factors contributing to low morale in DEQ appear to be problematic internal communication in the agency, a low level of trust among employees in agency management, and fear of job loss.

Moreover, the management and planning of the change process itself can have an effect on employee morale. For example, an American Management Association article states:

Why do some companies suffer from lower morale and productivity after downsizing, while others actually enjoy higher performance levels and greater job satisfaction? The answer lies, in large part, in the careful, strategic planning and skillful implementation of the downsizing program, headed by an involved, aware human resources management team.

As discussed previously, DEQ did not engage in any strategic planning to support the reorganization. This absence of planning has contributed to morale difficulties, as employees are unsure of the direction and finality of the current reorganization.

The employee survey addressed morale in two ways, individual perceptions of morale and perceptions of agency morale. The survey item regarding agency morale asked respondents to agree or disagree with the statement that “DEQ employee morale is good.” This survey item had been used in three previous JLARC employee surveys of State employees at other agencies. Table 4 compares the results of these surveys. Sampling error for each of these surveys is displayed in Appendix D to the report.

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**Table 4**

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### Comparison of JLARC Survey Responses Rating Morale

**Statement:** *Employee morale is good.*

<i>Department</i>	<i>Strongly Agree %</i>	<i>Agree %</i>	<i>Disagree %</i>	<i>Strongly Disagree %</i>	<i>No Opinion %</i>	<i>Number of Respondents</i>
Department of Environmental Quality (1995)	0	4	34	55	7	127
Department of Personnel and Training (1993)	0	28	49	15	9	80
Department of Education (1991)	0	10	37	45	8	71
Department of Taxation (1991)	2	25	32	32	10	190

**Note:** Percentages may not add to 100 due to rounding; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

**Source:** JLARC staff questionnaire of Department of Taxation staff, Spring 1991; JLARC survey of Department of Education staff, May 1991; JLARC survey of Department of Personnel and Training staff, Summer 1993; and JLARC survey of Department of Environmental Quality employees, September 1995.

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Individual ratings of personal morale were somewhat higher than those reported for agency morale. Nevertheless, two-thirds of employees responding to the JLARC survey indicated that their morale was fair or poor. Table 5 shows individual ratings of personal morale and compares this rating with the previous JLARC employee surveys that used this item.

**Table 5****Employee Perceptions of Their Own Morale****Question:** *How would you rate your own morale at the present time?*

<i>Department</i>	<i>Excellent %</i>	<i>Good %</i>	<i>Fair %</i>	<i>Poor %</i>	<i>Number of Respondents</i>
Department of Environmental Quality	4	29	39	28	127
Department of Personnel and Training	6	50	36	8	80
Department of Taxation	11	34	37	19	190

**Note:** Percentages may not add to 100 due to rounding; responses from DEQ headquarters employees have been weighted to produce a stratified sample.

**Source:** JLARC staff questionnaire of Department of Taxation staff, Spring 1991; JLARC survey of JLARC survey of Department of Personnel and Training staff, Summer 1993; and JLARC survey of Department of Environmental Quality employees, September 1995.

A number of DEQ employees completing the JLARC employee survey commented on morale. For example:

We couldn't feel more unappreciated, unrewarded, unsafe, unrespected, and unconsidered. You don't know from day to day if you're going to be "reorganized" to a regional office, privatized, or eliminated.

\* \* \*

The majority of the state employees at DEQ are here because of a desire to protect the environment. Morale is influenced tremendously when that desire has been overlooked by management.

\* \* \*

At this time I take pride in the work that I accomplish—not what DEQ does as a whole. This is the only way to feel rewarded from your job because the department will not congratulate someone for a good job—nor will they back them up on decisions.

***DEQ Morale is Low in Both the Headquarters and Regional Offices.*** Several DEQ managers theorized in interviews with JLARC staff that morale could be expected to be low in DEQ headquarters, due to layoffs and other position reductions there. However, these DEQ managers theorized that the agency's morale would be



substantially better in the regional offices, as these offices had been largely exempt from staff reductions.

To test this theory, JLARC staff analyzed morale responses from headquarters employees and regional employees. While regional morale was somewhat better than headquarters morale, morale in both headquarters and the regional offices was perceived as low by DEQ employees (Table 6). Fewer DEQ regional employees agreed with the statement “Employee morale is good” than was the case with employees at the three previous agencies which responded to this item on a JLARC employee survey. The principal difference between DEQ headquarters and regional responses to this morale

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**Table 6**

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### **DEQ Headquarters Morale Compared with DEQ Regional Morale**

**Statement:** *Employee morale is good.*

<i>Organization</i>	<i>Strongly Agree %</i>	<i>Agree %</i>	<i>Disagree%</i>	<i>Strongly Disagree %</i>	<i>No Opinion %</i>	<i>Number of Respondents</i>
DEQ Headquarters	0	2	24	68	8	61
DEQ Regions	0	6	39	47	6	66

**Question:** *How would you rate your own morale at the present time?*

<i>Organization</i>	<i>Excellent %</i>	<i>Good %</i>	<i>Fair %</i>	<i>Poor %</i>	<i>No Opinion %</i>	<i>Number of Respondents</i>
DEQ Headquarters	6	23	39	32	0	61
DEQ Regions	3	30	39	24	3	66

Note: Percentages may not add to 100 due to rounding.

Source: JLARC survey of Department of Environmental Quality employees, September 1995.

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question is in the number of employees strongly disagreeing with the statement “Employee morale is good.” A plurality of regional employees (47 percent) strongly disagreed. More than two-thirds of headquarters employees responding to this item (68 percent) strongly disagreed.

***DEQ Management Indicates It Has Taken Steps to Improve Employee Morale.*** DEQ’s director indicated that DEQ has taken or is in the process of taking steps to improve employee morale. These include: beginning implementation of the career

track program, reassuring employees about their job security, and being accessible to employees. Career track and reassurances to employees about job security are relatively recent initiatives by the agency's management.

The DEQ director indicated in an interview with JLARC staff that the agency, in his judgment, is at the correct staffing level and that further staff reductions might compromise the agency's effectiveness. Therefore, the DEQ director further indicated that he has assured employees that he will do all that he can to assure that any DEQ employee doing a good job retains a position within the organization. The DEQ director emphasized that some further regionalization is necessary, in his judgment, but that employees are being asked to volunteer for transfers to regional offices prior to requiring employees to transfer to regional offices (or lose their jobs).

DEQ management staff indicate that they are aware of some of the challenges they face with regard to the morale issue. The DEQ director indicated, in an interview with JLARC staff, that some DEQ employees have a strong sense that "environmental responsibility means costing people money to protect the environment." The director emphasized that "that is not the way we will do business." The director believes that this difference in attitude between the current direction of the agency and some employees is one of the challenges that the agency faces in resolving the morale issue. Another member of DEQ management has stated that many DEQ employees have many years of service under a number of different administrations and philosophies. The major changes in the agency now are not about what the agency does, but how it does it, according to this viewpoint. In the view of DEQ management, adjusting to the new way of doing things will be a challenge for DEQ employees.

*Morale Problem is More Extensive Than DEQ Management Thought and Continues To Be a Challenge.* It appears that improving employee morale and trust in agency management will continue to be a significant challenge for DEQ management. The survey results for this study indicate that the morale problem in DEQ is much more widespread than DEQ management has indicated. This is particularly the case in the DEQ regions, which were expected to be the focal point for the new DEQ. DEQ's director has indicated that, with the exception of some "pockets of resistance," morale in the regions "is fine." However, the employee survey results indicate that employee morale in the regions is almost at the same low level as morale in headquarters. Therefore, improving DEQ morale represents an agency-wide challenge for management.

### **DEQ Employee Trust in Agency Management Appears Low**

The JLARC employee survey included an item about trust in agency management. This item had been used in one previous JLARC employee survey. Table 7 shows employee responses on trust in agency management for the DEQ survey and the previous JLARC survey that used this survey item.

**Table 7**

### **Comparison of Survey Responses Rating Trust in Agency Management**

**Statement:** *Employee trust in agency management is good.*

<i>Department</i>	<i>Strongly Agree %</i>	<i>Agree %</i>	<i>Disagree %</i>	<i>Strongly Disagree %</i>	<i>No Opinion %</i>	<i>Number of Respondents</i>
Department of Environmental Quality	0	9	43	40	9	127
Department of Education	0	13	32	42	14	71

**Note:** Percentages may not add to 100 due to rounding; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

**Source:** JLARC survey of Department of Education staff, May 1991; and JLARC survey of Department of Environmental Quality employees, September 1995.

One factor influencing trust in agency management appears to be concern about the goals and priorities of the agency's management. More than half of the technical staff responding to the survey (49 of 97) made written comments expressing concern about their perception of political influences on the agency's programs to favor industry concerns over environmental protections. Another factor influencing trust in agency management appears to be the secrecy of organizational changes. Eleven employees commented on the secrecy involved in organizational changes and wondered why employees were not better informed as to what the agency's plans were. Several employees commented in their survey response that they learned more about the agency's direction from reading the local newspaper than from agency management.

#### **DEQ Employees Expressed Fear for Job Security Based on Continued Reorganization, Fear of Retaliation**

DEQ employees expressed considerable concern about the security of their positions, despite the majority of DEQ's staff reductions having been accomplished by methods other than layoffs and the agency's significant efforts to find alternative positions for employees who were laid off. There appear to be two principal causes for concerns about job security among DEQ employees. The first cause is uncertainty about the finality of DEQ's reorganization. The second cause for concern about job security among DEQ employees appears to be concern about retaliation for angering members of the regulated community.

*DEQ Employees are Uncertain About the Finality of the Agency's Reorganization.* In April 1995, the DEQ director announced the implementation of "the

final step of DEQ's reorganization." In June 1995, the Secretary of Natural Resources indicated in an interview with JLARC staff that the reorganization of DEQ was largely complete. However, after this "final step" in the reorganization, DEQ management took a number of actions affecting or potentially affecting agency employees, including:

- decentralization of the enforcement program (affecting 27 staff);
- decentralization of the Virginia Water Protection Permit program (affecting six staff); and
- initiation of the DEQ competition program (responded to by all DEQ staff).

While it is appropriate for public agencies to continually seek opportunities for organizational improvement, DEQ has discrete steps in its current reorganization that are incomplete and has not communicated to employees when these steps will be complete. These steps include the planned privatization of existing agency programs through analysis of the competition survey and decentralization of programs to the regional offices. Until these activities are either complete, or at least have some time table for them established, agency employees may continue to have concerns about their job security.

***Concerns About Retaliation for Enforcing Environmental Law and Regulations.*** In interviews with JLARC staff, several DEQ employees indicated their concern that they might be retaliated against for making a decision that, while consistent with law or regulation, upset members of the regulated community. It was indicated that this fear was impacting the morale of some DEQ employees. To test whether this perception was widespread among DEQ employees, JLARC staff included a survey item for DEQ technical staff that addressed this issue. Results are shown in Table 8. Fifty-seven percent of DEQ technical staff involved in making specific recommendations that were potentially of concern to the regulated community indicated that they felt that their job would be at risk to either "some" or "a very great" extent if they made a decision or recommendation that caused concern among the regulated community. Forty-three percent of technical employees responding did not think that their jobs would be at risk.

DEQ staff members also made written comments about fear of retaliation for not acceding to what a member of the regulated community wanted. Some of these comments specifically mentioned concern about job loss if a member of the regulated community lodged a complaint about them. For example:

**Job loss—all it takes now is one phone call.**

\* \* \*

**It's fairly simple to satisfy the 'Customer' e.g. Regulated Community or lose your job.**

**Table 8****Results of Survey Responses on Fear of Retaliation**

**Question:** *Assume you are making a decision or recommendation that is consistent with existing law or regulation, but which raises concern among one or more members of the regulated community. To what extent do you think your job could be at risk?*

I think my job would not be at risk %	My job could be at risk to some extent %	My job could be at risk to a very great extent %	Number of Respondents
43	41	16	77

Note: Responses from headquarters technical staff were weighted to produce a stratified sample of technical staff.

Source: JLARC survey of DEQ employees, September 1995.

This perception that an employee's job is at risk if he or she upsets or disagrees with a member of the regulated community by making a decision consistent with law or regulation should be addressed by DEQ management. This perception could be a detriment to the agency's goal of empowering employees to make decisions at the lowest possible level, and a detriment to achieving a high level of organizational performance and employee motivation.

***Recommendation (7).*** The Department of Environmental Quality should take action to finalize steps in its current reorganization such as the competition survey and the decentralization of programs to the agency's regional offices. DEQ should keep employees fully informed as to planned changes in the agency.

***Recommendation (8).*** The Department of Environmental Quality should develop a written policy for addressing complaints made by members of the public or industry against individual DEQ staff members. This policy should include provisions for: (1) impartial review by agency management of the complaint, including, when possible, corroboration of the validity of the complaint before any adverse action against an employee is taken, (2) an opportunity for the affected employee to offer his or her perspective on the complaint, and (3) following the Standards of Conduct Policy issued by the Department of Personnel and Training in taking any disciplinary action based on the complaint.

**EMPLOYEE VIEWS ARE MIXED ABOUT THE  
EFFECTIVENESS OF THE REORGANIZED DEQ**

At this time, DEQ employee views about the future effectiveness and efficiency of the reorganized DEQ are mixed. However, the largest portion of DEQ employees

surveyed indicated that they believed the reorganized DEQ would be less efficient and effective than the former DEQ, but substantial portions indicate a belief that the agency will be more efficient and effective or stay about the same. A majority of DEQ employees expressing an opinion indicated that they disagreed with the statement that the reorganized DEQ was advancing towards maintaining environmental quality. By a large majority, DEQ employees agreed that the agency was succeeding in becoming more customer service oriented and empowering regional staff to make more decisions.

### **Most DEQ Employees Agree that the Agency is more Customer Service Oriented and that Regional Staff Have Been Empowered**

Two of DEQ management's goals in the reorganization of the agency were becoming more customer service oriented and empowering the regional offices. A majority of DEQ employees (62 percent) agree that the new DEQ is "becoming more customer service oriented." A large majority (83 percent) of DEQ employees agree that the agency is "empowering regional staff to make more decisions." Table 9 shows responses to these items.

Several DEQ employees also commented on regional empowerment. Some of these comments were positive, some were mixed, and some were negative. For example:

I believe regional empowerment will be a definite asset to permitting.

**Table 9**

### **Employee Responses on Regional Empowerment and Improved Customer Service**

*DEQ is advancing towards empowering regional staff to make more decisions (n=127)*

<u>Strongly Agree %</u>	<u>Agree %</u>	<u>Disagree %</u>	<u>Strongly Disagree %</u>	<u>No Opinion %</u>
12	71	7	4	5

*DEQ is advancing towards becoming more customer service oriented (n=127)*

<u>Strongly Agree %</u>	<u>Agree %</u>	<u>Disagree %</u>	<u>Strongly Disagree %</u>	<u>No Opinion %</u>
12	50	11	4	2

Note: Percentages may not add to 100 due to rounding; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

Source: JLARC survey of DEQ employees, September 1995.

\* \* \*

The fact that the regions are more empowered to make decisions is good. However, the lack of guidance from Richmond and inconsistency across the state is disturbing.

\* \* \*

'Regional empowerment' and how the statewide enforcement of laws will be accomplished or how program consistency will be achieved has never been explained. Observations are that the wholesale shift of programs to the regional offices is simply an extension of political rhetoric and little or no technical considerations were explored.

During the next phase of the review, JLARC staff will examine aspects of DEQ's implementation of its regional empowerment philosophy. This review will include determining if adequate procedures are in place to ensure consistency among regions. JLARC staff will also analyze regional workload and examine whether the regional offices have appropriate resources to address their responsibilities.

Regarding customer service, in phase two of the review JLARC staff will solicit comments from DEQ's external customers. These include local governments, industry, and environmental groups. JLARC staff also plan to survey a sample of DEQ's permit holders.

### **A Plurality of DEQ Employees Believe the Reorganized Department Will be Less Efficient and Effective**

The JLARC employee survey asked DEQ employees to indicate whether they thought the reorganized DEQ would be "more efficient and effective," "less efficient and effective," or "about the same" (Table 10). Twenty-seven percent of DEQ employees thought that the new DEQ would be more efficient and effective, and forty percent thought that the new DEQ would be less efficient and effective. Twenty-seven percent thought that the new DEQ would be about the same as the former DEQ organization in terms of efficiency and effectiveness.

### **A Plurality of Employees Believe that the Agency Is Not Maintaining Environmental Quality**

The JLARC survey also asked DEQ employees whether the agency was advancing towards a number of goals stated in the agency's reorganization plan. One of these goals was maintaining environmental quality. Forty-nine percent of DEQ's employees disagreed with the statement that DEQ was maintaining environmental quality; thirty-three percent agreed with the statement (Table 11).

**Table 10****Comparison of Reorganized DEQ with the Former DEQ****Question:** *Overall, do you think the reorganized department will be:*

Agency	More Efficient and Effective %	Less Efficient and Effective %	About the Same %	No Response %	Number of Respondents
Department of Environmental Quality	27	40	27	6	127
Department of Education	21	31	34	14	61

**Note:** Responses from the survey of the Department of Education are included for comparison; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

**Source:** JLARC survey of Department of Education staff, May 1991; and JLARC survey of Department of Environmental Quality employees, September 1995.

**Table 11****Employee Responses on the New DEQ's Progress on Maintaining Environmental Quality****Question:** *In your opinion, is the new DEQ advancing towards meeting the following objectives: (maintaining environmental quality)?*

<i>Strongly Agree %</i>	<i>Agree %</i>	<i>Disagree %</i>	<i>Strongly Disagree %</i>	<i>No Opinion %</i>	<i>Number of Respondents</i>
3	30	27	22	16	127

**Note:** Percentages may not add to 100 due to rounding; responses from DEQ headquarters technical staff have been weighted to produce a stratified sample.

**Source:** JLARC survey of DEQ employees, September 1995.

Several DEQ employees expressed concern about the agency's continued ability to protect the environment. For example:

**My main concerns are the compromising of our mission to protect the environment and the natural resources of the state. We have lost many good programs and staff in the restructuring and I'm disturbed by the fact that DEQ is one of the hardest hit in the ... downsizing of state government.**



\* \* \*

**Environment comes second to our customers' desires.**

\* \* \*

**Management is entirely concerned with easing the enforcement of environmental regulations.**

The validity of DEQ employee perceptions regarding environmental protection will be tested in phase two of the review. However, this perception among agency employees will represent a management challenge for DEQ's leadership to address in improving morale and improving trust in agency management.

### **IMPLICATIONS OF PHASE I FINDINGS**

This phase of the review has concentrated on DEQ's ongoing reorganization and has identified concerns with inadequate planning for the reorganization, DEQ's personnel practices, and the low level of DEQ employee morale and trust in agency management. The findings from this phase of the review need to be placed in context. DEQ's current leadership team has significantly changed the emphasis, structure, and approach that the agency takes in fulfilling its statutory mandate. It is too early in this process to determine the effectiveness of these changes.

However, the effectiveness of a reorganization is oftentimes affected by the planning and management of the change process as well as the degree to which employees "buy in" to the change process. DEQ's change process needs more effective management and planning to improve the implementation of changes. Better agency management may also assist the agency in getting employees to buy into the change process by providing employees with needed information about the rationale for, goals, objectives, and specifics of proposed changes. At present, JLARC survey findings indicate that DEQ's leadership team faces significant challenges in improving low levels of employee morale and trust in agency management. Both low morale and lack of trust in agency management on the part of employees potentially hamper DEQ management's efforts to restructure the agency to be more efficient and effective.

In addition, given that the great majority of DEQ's resources are spent on salaries and benefits, concerns about personnel practices hinder the agency's ability to be as efficient and effective as possible. Concerns identified in this report about the agency's hiring practices and proposed implementation of a new personnel system should be addressed by the agency's management in order to improve employee morale and trust in management as well as the organization's effectiveness and efficiency. In addition, some aspects of concerns about DEQ's personnel management raise larger questions for the Governor, as the State's chief personnel officer, and the General Assembly regarding the management of the State Workforce. These questions include the role of wage

employees, the role of cabinet secretaries in agency hiring, and appropriate guidelines for agency-specific personnel systems.

## **ISSUES TO BE EXAMINED IN PHASE II**

This is an interim status report on the reorganization of the Department of Environmental Quality. Employee comments and concerns can be used by DEQ to make appropriate adjustments in management's approach to the reorganization and employees. The final report for this study will address the effectiveness of DEQ's programs in the areas of waste, water, and air pollution prevention and regulation and present another status report on employee perceptions of how well the reorganization is working.

The final report for this review is expected to address the following research questions:

- Are DEQ's permitting, compliance, enforcement, and remediation programs effective and efficient in protecting the environment?
- Are appropriate mechanisms in place to assure consistency among DEQ's regions in permitting, compliance, and enforcement actions?
- Is DEQ appropriately staffed, managed, and directed to carry out its statutory mission?
- How does the regulated community view DEQ, and what improvements do members of the regulated community suggest in DEQ's operation?
- What citizen concerns, if any, are there regarding DEQ's operation and performance?
- What is the status of DEQ's review of its regulations and what significant changes has DEQ suggested as a result of its regulatory review?

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