



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

**TO:** State Water Control Board Members

**FROM:** Walter Gills, Clean Water Financing and Assistance Program

**DATE:** August 29, 2016

**SUBJECT:** Approval of Draft Revisions to the Stormwater Local Assistance Fund (SLAF) Guidelines

### Purpose

DEQ has been implementing the Stormwater Local Assistance Fund (SLAF) for the last three years, authorizing approximately 150 capital projects totaling \$60 million in funding to date. The Virginia General Assembly recently amended the code to expand SLAF eligibility to include the acquisition of nonpoint source nutrient credits (SLAF eligibility was previously solely for capital projects). DEQ staff have developed draft revisions to the Board-approved SLAF Guidelines to address this new eligibility, as well as a number of other changes to improve the program, and is requesting Board approval to present these revisions for public review/comment.

### Background

In 2013, the Virginia General Assembly included Item 360 in Chapter 860 of the Acts of Assembly (the Commonwealth's 2013-2014 Budget) which created and set forth specific parameters for the administration of the Stormwater Local Assistance Fund (SLAF) and directed the Board to issue guidelines for the distribution of moneys from the SLAF. The purpose of the SLAF is to provide matching grants to local governments for the planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. On September 30, 2013, the Board approved the SLAF Guidelines for implementation. The Fund has received funding authorization totaling \$60 million over the last three fiscal years. As previously stated, the General Assembly recently added the purchase of non-point source nutrient credits to SLAF eligibility which necessitated revisions to the SLAF Guidelines to address that legislation. DEQ staff determined that additional changes would be beneficial to improve the SLAF program while we were going through a revision process.

During the drafting of these SLAF Guideline revisions, DEQ reached out to a number of stakeholder organizations that provided input during the initial Guideline development process and had maintained interest in the program since its implementation in order to receive their suggestions for program improvement. Those groups were the Virginia Municipal Stormwater Association, Chesapeake Bay Foundation, and the James River Association. Additional input was provided by the Reedy Creek Coalition. All comments were considered by DEQ and many resulted in changes to the Guidelines. DEQ also made a number of other revisions based on our three year experience implementing the program.

Highlights of the revisions included for Board consideration are as follows:

- (1) Purchase of Non-Point Source Nutrient Credits-Language has been included in the ‘Eligible Projects’ section of the Guidelines to add non-point source nutrient credits. The credits must be permanent and DEQ certified to be eligible. Funding for non-point source nutrient credit purchase would be limited to no more than 25% of available funds in any given funding cycle. This limitation was recommended by the stakeholders and supported by DEQ as a reasonable restriction for the first years of a new program element. It was also considered important for the program to continue to support a significant number of on-the-ground capital projects that improve local water quality as well as Chesapeake Bay restoration goals. For the most part, the existing Priority Ranking Criteria developed for capital projects will be used to rank non-point source nutrient credits; however a new set of the Readiness- to-Proceed criteria unique to credit purchase was developed.
- (2) Grant Award Process Changes- As suggested, language was added/ revised to reflect the consideration of distributing funds to the greatest number of communities as practical during the selection process, that individual grant awards would be made per project, and that DEQ would manage the Fund to maintain some contingency funds to address unforeseen cost overruns.
- (3) Changes to the Priority Ranking Criteria- As requested, the points for the Cost- Effectiveness category was increased with points reduced from the Pollutant Removal category. In order to try to address the chronic problems we’ve experienced with extremely slow progress with the implementation of SLAF-funded projects, the point value was increased for the Readiness to Proceed category and more appropriate and verifiable milestones were established. And as previously stated, Readiness to Proceed criteria were created for new purchase of nutrient credits requests.
- (4) Stream Restoration Projects- Due to concerns expressed regarding some stream restoration projects, language has been added which requires that applications for restoration projects must include a written description of the site selection process including documentation and photographs of the stream to be restored.
- (5) As a grant cost control measure, SLAF participation in the cost of professional services associated with projects will be limited to no more than 35% of the construction cost for the project.
- (6) The minimum allowable grant amount was reduced to \$50,000 from the current \$100,000 minimum.

### Conclusion

The 2016 Virginia General Assembly added the purchase of non-point source nutrient credits as a new eligibility for the Stormwater Loan Assistance Fund (SLAF). In order to address this change, as well as other improvements to the program, DEQ staff have drafted revisions to the SLAF Guidelines for Board authorization for public review/comment. After completion of the public participation period, the revisions will be brought back to the Board for final approval.

### Staff Recommendations

The staff recommends that the Board authorize the draft revised Stormwater Local Assistance Fund Guidelines to be presented for public review/comment.