

# APPENDIX 9

Local Environmental Review for Highway Projects

## Local Environmental Review for Highway Projects

In 2007 legislation was enacted that affects highway projects undertaken by localities. Effective July 1, 2007, any county, city or town of the Commonwealth must conduct an environmental review of highway improvements. The threshold for this review was established as \$500,000.00.

**Virginia Code § 10.1-1188 B** states: For purposes of this chapter, this subsection shall only apply to the review of highway and road construction projects or any part thereof. The Secretaries of Transportation and Natural Resources shall jointly establish procedures for review and comment by state natural and historic resource agencies of highway and road construction projects. Such procedures shall provide for review and comment on appropriate projects and categories of projects to address the environmental impact of the project, any adverse environmental effects which cannot be avoided if the project is undertaken, the measures proposed to minimize the impact of the project, any alternatives to the proposed construction, and any irreversible environmental changes which would be involved in the project.

Legislation effective July 1, 2013, raises the total cost from \$500,000 to \$ 2 million after which highway construction, reconstruction, or improvement projects by localities would be required to have an environmental impact report. The Memorandum of Agreement between the secretaries of Natural Resources and Transportation is attached.



**COMMONWEALTH of VIRGINIA**  
*Office of the Governor*

Timothy M. Kaine  
Governor

October 10, 2007

**MEMORANDUM**

TO: Local Government Administrators

FROM: The Honorable L. Preston Bryant, Jr.   
The Honorable Pierce R. Homer 

RE: Local Environmental Review for Highway Projects

We are writing regarding legislation enacted in 2007 that will affect highway construction projects undertaken by localities. Effective July 1, any county, city or town of the Commonwealth must conduct an environmental review of highway improvement projects. This is a result of amendments to section §10.1-1188 of the *Code of Virginia*. A copy of this section is enclosed. The purpose of our letter is to update you on our plans to assist localities with complying with this legislative requirement.

We are working to develop procedures for a streamlined local environmental review process. We will work with you and your colleagues to establish a local self certification process for review and comment by state natural and historic resource agencies of highway improvement projects undertaken by any county, city or town. This process will involve the local governments working directly with natural resource agencies prior to design of highway projects. We intend to incorporate these procedures in a revision of the Memorandum of Agreement between our offices that was developed in 1991 which currently only applies to highway projects funded by the Virginia Department of Transportation (VDOT). We anticipate completing the revisions to the Memorandum of Agreement by the end of the 2007 calendar year. A copy of the 1991 Memorandum of Agreement can be found on VDOT's website at: <http://virginiadot.org/business/resources/moa.pdf>. VDOT and the Department of Environmental Quality will provide technical assistance and training for local officials to ensure smooth implementation of this process.

These new requirements only apply to highway improvement projects where preliminary engineering was commenced after July 1, 2007. A list of projects that are exempt from the state environmental review process for highway projects is enclosed. These same exemptions will apply to highway projects undertaken by localities. Finally, these requirements do not apply to any improvement project or activity which is subject to the NEPA process or the existing State Environmental Review Process.

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In the interim, we have agreed that when a locality follows the guidelines and completes a copy of the Preliminary Environmental Inventory Form listed on VDOT's "Environmental Compliance for Local Governments" website: [http://virginiadot.org/business/environmental\\_requirements\\_localEnvCompliance.asp](http://virginiadot.org/business/environmental_requirements_localEnvCompliance.asp) prior to selecting a final site and design, for its project and includes documentation to that effect in its public record and decision making process, it will have complied with the provisions of §10.1-1188 for any highway improvement projects initiated on or after July 1, 2007. Our revised Memorandum of Agreement will replace this letter later this year. Please be aware that complying with this interim process will not affect any requirement of a project sponsor to obtain and adhere to any applicable permits or approvals issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact.

If you have any questions about the guidance information or forms on VDOT's environmental compliance website, please contact the District Environmental Manager at the VDOT District where your project is located. A listing of VDOT's District Environmental Managers can be found at: [http://virginiadot.org/business/Environmental\\_District\\_Contacts.asp](http://virginiadot.org/business/Environmental_District_Contacts.asp).

We are looking forward to working with you on this important endeavor.

Enclosure

COPY: Virginia Association of Counties  
Virginia Municipal League  
Mr. David K. Paylor  
Mr. David S. Ekern