Procedure Manual

Environmental Impact Review of Major State Facilities

Virginia Department of

Environmental Quality

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OFFICE OF ENVIRONMENTAL IMPACT REVIEW

This procedure manual was prepared and distributed according to the requirements of *Virginia Code* §10.1-1191, which directs the Department of Environmental Quality to develop procedures governing the preparation and evaluation of required environmental impact reports for state projects.

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INTRODUCTION

Virginia Code §10.1-1188 requires state agencies to prepare and submit an environmental impact report (EIR) for each major state project. This manual describes objectives, criteria, and procedures developed by the Department of Environmental Quality (DEQ) to assure the orderly preparation and evaluation of environmental impact reports.

1. PROGRAM GOALS

The purpose of environmental review is to identify and evaluate the environmental effects of proposed state facilities, and to guide facility siting and design decisions in order to protect important environmental resources. The analysis needed to prepare an environmental impact report (EIR) helps agencies to assess the effects of development proposals, and to consider alternative actions and mitigating measures to avoid or reduce adverse impacts. Review of the EIR provides the DEQ and other state agencies with information that can be used to recommend project modifications, if needed, and to make recommendations to the Secretary of Administration. Preparation of EIRs assists proponent agencies in developing projects which are consistent with existing land-use policies including local plans and ordinances. *Virginia Code* § 10.1-1190 provides that the State Comptroller shall not authorize payments of funds for major state projects unless the request is accompanied by written approval of the Governor after his consideration of the comments by the DEQ on the environmental impact of the facility. Each new Governor typically delegates the authority to approve projects to the Secretary of Administration by Executive Order. The Secretary of Administration must then weigh the benefits and environmental costs of the project before releasing funds for that project. The DEQ's recommendations to the Secretary of Administration are advisory. However, the Secretary may incorporate them as conditions of project approval.

In some instances, environmental review will help to avoid unforeseen construction costs to overcome environmental hazards. In other cases, environmental review will help agencies avoid adverse impacts on the natural resources of the Commonwealth. In all cases, environmental review helps agencies provide facilities that are consistent with state environmental policies, such as the Commonwealth's pollution prevention policy, and are models for other development.

2. RESPONSIBILITIES OF PROPONENT AGENCIES

The environmental impact reporting and review procedure should be a part of the planning, siting, and design procedure for major state projects. When it is scheduled as part of the process, the preparation of the EIR can be accomplished efficiently, and in a time frame that does not impede implementation of projects. Agencies that are considering major project initiatives are encouraged to contact DEQ - Office of Environmental Impact Review (DEQ-OEIR) early in order to enlist DEQ's assistance in identifying important environmental issues and determine the level of environmental analysis necessary to satisfy the requirements of §10.1-1188.

In order to ensure consistent quality in conducting its reviews, DEQ needs certain information, as discussed in the following chapters. Where insufficient information is provided for assessment of the impacts of the proposed project on the environment and natural resources, DEQ will return the EIR document to the proponent agency. If additional information is not provided, DEQ may limit its comments to those issues that have been presented adequately, while identifying deficiencies in the environmental report. Either action may result in delays in initiating a project. DEQ therefore urges each proponent of a project subject to the EIR law to supply complete information. DEQ also encourages proponent agencies to contact local planning and transportation agencies early in the planning phase for major state projects to ensure that local plans and ordinances are adequately considered.

The information requirements and procedures for review are simple. DEQ strives to ensure that the procedure remains a vehicle for efficient and effective environmental review. In all cases, DEQ strives to provide a flexible process that can be adapted to unusual circumstances. Agencies with special needs are encouraged to contact DEQ early in their project planning to discuss problems in meeting their mandates or questions about their responsibilities.

3. RESPONSIBILITIES OF REVIEWING AGENCIES

DEQ must review and comment on an EIR within 60 days. In conducting its reviews, DEQ-OEIR relies heavily on the comments and guidance of other divisions within DEQ as well as other agencies. In reviewing environmental impact reports, state agencies should determine whether any of their proprietary, management, policy development, or regulatory responsibilities is likely to affect or be affected by the project under review. The effect should be described in the agency's comments.

DEQ-OEIR relies on other divisions and agencies to provide the basic information for comments and recommendations about a proposed facility. The reviewing agency or entity is expected to bring its expertise to bear on the analysis presented in the EIR. If permitting will be required, agencies should identify criteria or anticipated permit conditions to aid the proponent agency in preparing for permit application review. Reviewing agencies should also recommend application of existing agency or state policies. New policies to deal with the issues raised by the project under review could also evolve from the EIR review process.

Reviewing agencies should provide a rationale for the comments they make in reviewing project EIRs. This rationale may include statutory declarations of policy (in which case a citation is desired), memoranda of agreement or understanding, relevant state policy, or other reasoning which underlies the suggestions. Development of state facilities must incorporate protection measures stipulated in state policies that are more stringent than applicable regulatory requirements. For example, all agencies of the Commonwealth must administer their programs in accordance with the following:

(1) the Chesapeake 2000 Agreement providing “Government by Example,” ensures that all properties owned, managed, or leased by the Commonwealth are developed, redeveloped and used in a manner consistent with the “sound land use” goals and commitments of this agreement;

(2) Virginia's Coastal Zone Management Program (formerly) Virginia's Coastal Resources Management Program - state agency activities must be consistent with the goals and priorities of the coastal program established in 1986;

(3) the Commonwealth's wetlands policy - in 1993 the Commonwealth adopted a goal of "no net loss" of wetlands functions and values within the Chesapeake Bay watershed. The goal was expanded in 1997 by the Chesapeake Executive Council's Directive 97-2, "Wetlands Protection and Restoration Goal," and reaffirmed in the Chesapeake 2000 Agreement; and

(4) the Commonwealth's Pollution Prevention policy - in 1995 the General Assembly passed House Joint Resolution 453 encouraging state agencies to participate in pollution prevention planning.

Capital projects should be coordinated with ongoing pollution prevention planning activities and constructed in accordance with pollution prevention principles.

ENVIRONMENTAL REVIEW FOR MAJOR STATE PROJECTS

1. DEFINITIONS

The following words and terms have the following meanings, unless the context clearly indicates otherwise:

"Acquisition for Construction" means a gift, lease, or purchase of land or rights thereto, for the purpose of building a new state facility.

"Construction" means any act of site preparation, including clearing and grading, or excavation, or erection of a structure for the purpose of building a major state facility.

"Director" means the Director of the Department of Environmental Quality.

"Environment" means the natural, scenic and historic attributes of Virginia.

"Environmental Assessment (EA)" means an assessment of environmental impacts according to National Environmental Policy Act (NEPA) requirements. It is a federally required document that contains information about proposed federal agency actions, programs, grants, and permits that may significantly affect the environment, and the significance of the impacts. The EA can serve as the basis for determining the necessity of preparing an EIS.

"Environmental Impact Report (EIR)" means the document mandated by *Virginia Code* §10.1-1188. The document must be prepared by a state agency proposing to construct a major state facility or acquire land for construction.

"Environmental Impact Statement (EIS)" means a federally required document that fully addresses environmental impacts, alternatives, and mitigation measures.

"Major State Project" means the acquisition of an interest in land for construction of any state facility, or the construction of any state facility, or expansion of an existing facility costing over $500,000.

"Proponent Agency" means the agency that will build, occupy, or be the primary user of a facility once it is completed.

"Virginia Outdoors Plan" means the comprehensive outdoor recreation and open space plan prepared by the Department of Conservation and Recreation.

"Direct Impacts" are those impacts caused by the proposed action that occur at the same time and place.

"Indirect Impacts" are caused or induced by the action but occur later in time or are removed in distance.

"Cumulative Impacts" are the impacts on the environment that result from the incremental effect of the proposed action added to other past, present, or reasonably foreseeable future action.

2. PURPOSE

A. The purposes of environmental impact reports (EIRs)

1. The environmental impact report (EIR) is intended to inform proponent agencies, oversight agencies, and other decision-makers of the environmental consequences of development activities by state agencies, and to ensure that construction of state facilities is carried out in an environmentally sound manner.

2. Preparing the EIR for a proposed project enables proponent agencies to identify potential impacts on environmental resources, and to revise project plans in order to avoid, reduce, or compensate for those impacts.

3. The EIR provides essential information that allows DEQ and other reviewing agencies to carry out their review in an efficient and timely manner.

4. The EIR is a commitment by the proponent agency that it has carried out a reasonable review and analysis of the environmental impacts of its facility development proposal, and that it will implement all design and mitigation actions specified in the document. DEQ's comments about the environmental impacts of a project presume that those commitments will be carried out.

B. The purpose of environmental impact review

1. DEQ reviews the EIR in order to provide comments to the Governor on the environmental impact of each major state facility.

2. The review assures that environmental impacts requiring modification of a major state project are identified in a timely manner, before acquisition of a parcel or before construction begins on existing state land.

3. Reviewing agencies determine whether any of their proprietary, management, policy, or regulatory responsibilities are likely to affect or be affected by the project under review.

4. If permitting will be required, regulatory agencies may identify criteria or permit conditions to aid the proponent agency in preparing a permit application.

5. Reviewing agencies may apply existing agency or state policies, or make recommendations to deal with the issues raised by the project under review. The objective of such comments is to assure that state agency projects provide a model for environmentally sound development.

3. APPLICABILITY

A. Who is required to submit an environmental impact report?

1. All state agencies, boards, commissions, authorities, and any branch of state government are required to prepare and submit an environmental impact report (EIR) to the DEQ on each major state project.

2. State-supported institutions of higher learning are subject to the EIR requirement;

3. Counties, cities, and towns are exempt from the EIR requirement excepting local highway and road projects (2007 amendment to §10.1-1188, see Appendix 9 for guidance)

4. Housing development or redevelopment authorities and industrial development authorities are exempt from the EIR requirement. Also, effective July 1, 2012, the Virginia Port Authority's projects are exempt unless it is a capital project that costs in excess of $5 million (2012 amendment to §10.1-1188).

B. Which projects require an environmental impact report?

1. The requirement applies to major state projects as defined by *Virginia Code* §10.1-1188. This includes the following activities if they cost $500,000 or more:

- the acquisition, including gifts, leases, or purchase of land or rights thereto, for state facility construction;
- construction of a facility;
- expansion of an existing facility.

2. The definition of major state projects also applies to any lease of state land to private entities for construction that meets the criteria of this section.

C. Which state projects do not require environmental impact reports?

1. Environmental assessment for highway and road construction on VDOT rights-of-way is conducted according to procedures defined in a memorandum of agreement by the Secretaries of Transportation and Natural Resources.

However, environmental impact reports are required for parking lots, sidewalks, driveways and other pavement within a state project boundary if they meet the criteria of Sections A and B, above.

2. Environmental impact reports are not required for repairs, interior renovations, or "maintenance reserve" projects. Maintenance reserve projects include the following, provided replacements are along the same alignments as the structures being replaced:

- Repair or replacement of damaged or inoperable equipment such as elevators, furnaces, plumbing fixtures, air conditioning and ventilation equipment;
- Repair or replacement of components of plant such as masonry, ceilings, floor, floor coverings, roofs, sidewalks, parking lots, exterior lighting, boilers, and air conditioners;
- Repair or replacement of existing utility systems, such as electrical, water and sewer, heating and cooling; and
- Correction of deficiency in property and plant that are required to conform with building and safety codes or those associated with hazard corrections, including asbestos hazards when incidental to repair/maintenance.

3. When a state agency acquires developed property, no EIR is required unless new construction involving land-disturbing activities is proposed including expansion of the existing structure, replacement of the structure, or construction of additional structures. However, proponent agencies should conduct an environmental hazards inspection before acquiring any property since pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a purchaser can be liable for past contamination of a property.

4. EIRs are not required for master plans, although construction of specific facilities shown on a master plan will require an EIR if they meet the criteria in Sections A and B, above.

Although it is not required, DEQ strongly encourages state entities preparing master plans for multiple acquisition or development projects to prepare an EIR. Review of the master plan EIR will expedite the review process for individual projects under the master plan by resolving common issues early.

5. Acquisition for the purpose of carrying out an agency's land management responsibilities, which does not involve building on the land, does not require an EIR. Examples include the acquisition of Natural Area Preserves, Wildlife Management Areas, or State Forest lands.

D. Can the requirement to prepare an EIR be waived?

DEQ has no authority under the EIR law to waive the requirement for preparation of an EIR of "major state projects" as defined in §10.1-1188.

E. Can a federal environmental impact assessment (EA) or statement (EIS) fulfill the requirement for a state EIR?

1. Where a project is subject to both state and federal requirements, DEQ will accept a suitable federal document as the state EIR. The document must meet the standards in this manual.

2. State agencies that must meet federal EA or EIS requirements for a project should consult with DEQ early in the planning process in order to avoid duplicating effort to produce the state EIR.

F. What if a project changes?

If a proposed project changes subsequent to the EIR review and approval, DEQ must be notified. DEQ shall determine if the change affects the environmental consequences addressed in the EIR thereby requiring further review.

4. WHEN TO PREPARE AND SUBMIT AN EIR

A. EIRs must be submitted in a timely manner.

1. The State Comptroller may not authorize release of funds from the state treasury for a project unless the request is accompanied by the written approval of the Governor after consideration of the comments of DEQ on the environmental impacts of the project.

2. State agencies must submit an EIR in sufficient time to permit any modification of a project that may be needed because of environmental impacts.

B. DEQ must review an EIR and make a statement to the Governor within 60 days.

1. The 60-day review period will begin upon receipt of a report that meets the requirements of *Virginia Code* §10.1-1188. DEQ will confirm receipt of completed EIRs or request additional information, and will inform agencies about the expected review schedule.

2. Agencies must submit EIRs in time to accomplish review and design modification before the commencement of any site preparation for project construction.

Agencies risk project delays and additional costs if an EIR is submitted after project design has been completed. If the EIR is incomplete, or if the review results in a recommendation from DEQ for project modification to avoid or reduce an environmental impact, the start of construction may be delayed until redesign has been completed.

3. DEQ and reviewing agencies may determine that certain projects have negligible environmental impacts, and do not need detailed analysis and review. Where DEQ and reviewing agencies agree that a project would cause little impact,

review may be completed in less than 60 days. If specific concerns are found, they will be analyzed and resolved with appropriate agencies. Specific concerns may also lead to negotiation or follow-up if not readily resolved.

C. EIRs may be submitted for review at any time during the calendar year.

1. DEQ encourages agencies to notify DEQ of their intent to submit the EIR for review at least 30 days before submission. A sample format for notifying DEQ of the intent to submit an EIR is shown on Form 2, located in Appendix 1 of these procedures.

2. DEQ recommends that EIRs be submitted in the spring of the year preceding adoption of the Commonwealth's biennial budget.

The EIR is one of several documents that are required by the Department of Planning and Budget (DPB) and the Division of Engineering and Buildings (DEB) prior to project implementation. Early submission provides needed time to resolve questions about the EIR in order to meet the DEB requirement for the project. This time frame also implements *Virginia Code* §10.1-1191, which requires EIR submission early enough to allow for project modification necessitated by environmental impact. Early completion of the EIR review allows the necessary modifications to be included in the project designs at the same time that the funds are appropriated.

3. There is no penalty for submitting a project EIR at other times of the year; however, submission by June 30 provides adequate time to resolve issues pertaining to the EIR.

D. EIR preparation and review should be an integral part of project planning.

1. For construction, project EIRs should be prepared, submitted, and reviewed during the planning or equivalent phase of project development.

2. When land acquisition for construction is proposed and sufficient information concerning the development of the site is not immediately available, a two-part EIR will be accepted in order to facilitate time constraints associated with acquisition. Part 1 should precede the acquisition of land, and Part 2 may be deferred to a more appropriate phase of the project planning schedule.

Where possible, a complete EIR for the proposed facility should be reviewed before the property is acquired. Where preliminary design cannot be accomplished prior to acquisition, a two part EIR should be submitted according to the criteria discussed in Section 5.

EIRs for projects that include land acquisition must be submitted before the proponent agency is committed to the acquisition. We recommend that an option to purchase a property be obtained and the pre-acquisition phase of the EIR be submitted in time for review to be completed before the option expires.

Where unforeseen and uncontrollable events require an expedited review, DEQ will attempt to expedite the review process. However, failure by an agency to submit an EIR in a timely manner will not be sufficient grounds to shorten the review period.

3. The Governor may approve receipt of gifts to the Commonwealth and expenditures of money on emergency projects when the General Assembly is not in session, under specified conditions which are typically enunciated in Virginia Code Section 4-4.01(i) of each budget bill. Emergency projects require completion of the EIR and the review process as a pre-requisite to project implementation. In these cases the EIR should be submitted as soon as possible, and DEQ will review it as quickly as possible. Early contact with DEQ is recommended to ensure that DEQ's project schedule can accommodate an expedited review.

The DEQ will review completed EIRs within the 60-day statutory time frame. Depending on circumstances such as those mentioned above, the review period may be shortened. However, inadequate analysis or information may cause the review period to be extended.

5. EIR REVIEW PROCESS AND REQUIREMENTS

A. The Time Table for Review

1. DEQ must forward comments to the Secretary of Administration within 60 calendar days following receipt of a completed environmental impact report. The coordinated review by state environmental agencies must take place within this time frame.

2. DEQ sets deadlines for comments from reviewing agencies and entities by determining the dates by which comments for EIRs are due. In most cases, about 30 days is available for reviewing agencies to review an EIR for a project and return their comments to DEQ.

3. Planning district commissions (PDCs) and localities may request additional review time, if necessary. In such cases, the reviewers must inform DEQ that they are unable to complete the review in the time available. The reviewer should provide some sense of the concerns of the PDC or the local government on the project in question. Depending on the issues related to the project, DEQ will modify its deadline (within the statutory 60-days), if possible, or frame its response so as to take account of the needs of the commenting entity.

B. Summary of the Coordinated Environmental Impact Review Process

Step 1. The proponent agency decides whether an EIR is required using criteria provided by DEQ. (See Form 1 in Appendix 1.) If agencies desire confirmation of their determination about the need for an EIR, the completed form should be sent to DEQ for review (email inquiries are encouraged). DEQ will respond in writing regarding whether an EIR is needed.

Step 2. The proponent agency prepares the EIR during the planning phase for the project.

Step 3. The proponent agency informs DEQ 30 days in advance of its intent to submit an EIR for review (optional).

It is suggested that DEQ be notified of an agency's intent to submit an EIR for review at least 30 days in advance of the submission in order to reschedule other commitments, if necessary. This helps to assure that comment deadlines can be met. A sample format for notifying DEQ of the intent to submit an EIR is contained in Appendix 1 (Form 2) of these procedures.

Step 4. DEQ responds within 15 days of notification, stating the required number of copies to be submitted. Proponent agencies must send a sufficient number of copies of the EIR to DEQ for coordinated review.

The proponent agency is responsible for furnishing the number of copies of an EIR needed for reviewing agencies as specified by DEQ **(18 copies for most projects)**. The number of copies required depends on the number of reviewers needed for a particular project, but usually does not exceed 20.

If 18 copies are required, the proponent agency may submit 3 hardcopies and 15 electronic copies (CDs), or 3 hard copies and an accessible website, file transfer protocol (ftp) site or an electronic copy via VITAShare (https://vitashare.vita.virginia.gov/). If the proponent agency chooses to submit only hardcopies, one electronic copy is requested.

If the proponent agency prefers to await the preliminary determination of sufficiency of information discussed in Step 5, below, before sending additional copies, this may be arranged. However, the 60-day review period will not begin until the required number of complete documents is provided to DEQ.

Step 5. Upon receipt of the document, DEQ conducts a preliminary review of the EIR to ensure that basic information has been provided. If information is inadequate to satisfy the requirement of §10.1-1188, the document may be returned for additional information. If the EIR is complete, the 60-day review period commences, and DEQ circulates the EIR to reviewing agencies.

DEQ invites comments from interested agencies, planning district commissions, and localities. Where agencies or entities are interested in a project or have a responsibility related to a project proposal, DEQ will contact that agency for review and comment. In cases where the impacts of a project are likely to be insignificant and DEQ can effectively predict the types of responses it would get in a coordinated review, DEQ may do a "limited" coordination with selected agencies (localities are always included).

Public review of EIRs is not mandated for major state projects; however, DEQ may consider any information that it receives about the environmental effects of a project under review.

Review by localities is sought by DEQ pursuant to *Virginia Code* §15.2-2202, which requires that DEQ include localities in the EIR review process. The purpose of the distribution of an EIR to a locality is to allow the locality to evaluate the proposed project for environmental impact, consistency with the locality's comprehensive plan, local ordinances, and applicable laws and to provide the locality with the opportunity to comment. Comments from localities are considered substantially in the same manner as comments from state agencies. Also, DEQ includes the appropriate planning district commission in the review as a matter of operating policy. The location of the project and its effects determine which entities are invited to comment. For example, for a project that affects the flow of a river constituting a boundary between two counties and taking place in a third, DEQ will

solicit comments from all three, as well as the affected planning district commission or commissions.

Step 6. Reviewing agencies use the EIR to assess the project and send comments to DEQ. Agencies may request a site visit or may inform DEQ of additional information requirements. DEQ staff, the proponent agency, and the reviewing agency agree on schedule revisions if additional time is required.

During the course of their review of a project, reviewing agencies may inform DEQ that sufficient information is not available to complete their review. DEQ, the reviewing agencies and the proponent agency will mutually agree on actions necessary to obtain the information and complete the review. A revised schedule for completion of DEQ's review may be required if the information request is substantial and reflects a lack of information in the original document.

The proponent agency may be required to commission or undertake any of the following studies:

- a wetland delineation,
- an archaeological survey;
- an architectural or historic structures survey;
- verification of the limits of Chesapeake Bay Preservation Areas;
- a Water Quality Impact Assessment for any proposed land development activities in a Resource Protection Area;
- documentation showing that a site-specific Perennial Flow Determination has been carried out in order to determine whether water bodies on the development site have perennial flow and, if necessary, that Resource Protection Area boundaries have been adjusted accordingly on the site, based on the site evaluation findings.
- a survey for the presence or habitat of endangered, rare, or threatened species of wildlife, plants, or insects; and
- an environmental hazard inspection.

Step 7. DEQ receives the comments of reviewing agencies. Any conflicts between the comments of different agencies are settled with the concerned agencies. Using agency comments and its own analysis, DEQ prepares comments and recommendations about the proposed project.

Step 8. DEQ submits its comments on the project to the Secretary of Administration within the 60-day statutory review period (see *Virginia Code* §10.1-1189). Copies are provided to proponent agencies, appropriate reviewing/commenting agencies, the Department of Accounts, Department of Planning and Budget, and the Division

of Engineering and Buildings. DEQ's comments are also available for public review at the DEQ - Division of Environmental Enhancement.

Step 9. The Governor authorizes or disapproves release of funds for a project. The Governor has delegated authority to the Secretary of Administration to approve or disapprove major state projects pursuant to *Virginia Code* §10.1-1190.

Step 10. DEQ or other agencies with permitting or oversight responsibilities may monitor project development to ensure that the design and mitigation commitments are carried out.

Monitoring is conducted in cooperation with the proponent agency, or in response to an emergency.

The Department of Accounts monitors state agencies' compliance with the law governing major state projects (*Virginia Code* §10.1-1188 through 10.1-1192) by requiring evidence of completion of EIR review. As indicated above, the DEQ provides this evidence by copy of its comments.

6. CONTENT FOR AN EIR

A. The EIR must discuss five subjects specified by §10.1-1188

- The environmental impact of the project including the impact on wildlife habitat and impact on farm and forest lands pursuant to *Virginia Code* § 3.2-204 through §3.2-205;
- Adverse effects that cannot be avoided if the project is undertaken;
- Measures proposed to minimize the impact of the project;
- Alternatives to the proposed construction; and
- Irreversible environmental changes which would be involved in the project.

B. DEQ guidelines for organization of the EIR document

In order to clearly discuss the content required by law to be included in the EIR, DEQ recommends that the EIR document contain the sections which follow. However, the proponent agency may, at its discretion, depart from this format, provided the substance of each element enumerated in §10.1-1188 is included in the EIR.

1. Project identification and description.

The project should be given a title for easy identification. A contact person within the sponsoring (or proponent agency) should be indicated. If applicable and available at the time of submitting the EIR, capital budget appropriation data (agency code, project code, budget item, and the budget biennium) should be included. The location of the project must be clearly identified on a U.S. Geological Survey topographic map, or its equivalent, and a site plan. The EIR must fully describe the project and, in particular, aspects of the project that may cause direct or indirect environmental impacts. For example, it must discuss provisions for utilities such as existing and proposed facilities for providing potable water and wastewater treatment, including intake or outfall locations, expected additional demands, and facility capacities. Description of the site must be thorough and include information on existing or proposed storage tanks (number, capacities, spill prevention measures, and containment plans) as well as provide some history on previous use, prior fish kills, and petroleum releases in the project vicinity. The purpose of this section is to make the reviewer aware of what is being proposed, important design features, how the facility will be operated, and the purpose of the facility.

2. Affected environment.

This section should identify sensitive environmental features that may be affected by the project. The EIR should describe the land area, topography, and natural and physical features of the land. It should describe existing structures or facilities affected by the project. The EIR should also describe land uses on abutting or adjacent parcels, and on other parcels likely to be affected by the proposed facility. The discussion on land uses should include applicable regional plans and local ordinances (including those developed pursuant to the Chesapeake Bay Preservation Act) and plans such as locally-developed watershed management plans, comprehensive plan recommendation of the local jurisdiction for the property and surrounding areas (if available), and state and locally-adopted transportation plans. The purpose of this discussion is to

establish baseline information for the impact analysis which follows and to identify features that require specific designs or that limit design alternatives.

3. **Impacts of the project.**

The third section of the EIR should describe and analyze the direct, indirect, and cumulative environmental impacts of the preferred project alternative. For example, in addition to direct impacts of soil loss at the project site, soil erosion can have adverse secondary impacts on wetlands off-site which result from downstream deposition of sediments. The discussion of impacts should also include impacts from activities related to the project, such as the use of pesticides or herbicides, the management of hazardous materials at the site, or handling of solid and hazardous waste generated at the site. The purpose of this section is to identify the environmental consequences of proceeding with the project. The identification of impacts is needed in order to properly weigh the costs of a project against its potential benefits and to evaluate needed mitigation measures. Potential impacts to significant resources should be considered and discussed for each of the project alternatives. Impacts should be discussed in measurable terms (acres, gallons per day, square feet, etc.) where possible. The discussion should include the environmental effects of the project that cannot be avoided if the project is to be built. Unavoidable impacts are those that remain after available mitigation measures have been included. Agencies proposing to construct or acquire land for major state facilities should indicate whether the proposal is consistent with applicable federal and state policies, applicable local ordinances and comprehensive plans. This section must identify and describe the resources present on sites of interest, and should evaluate how their use of the site may affect the resources listed below.

- Endangered, threatened, or rare plants, animals, or insects; (See the Virginia Fish and Wildlife Information System at: http://www.vafwis.org/fwis.)

- Species of Greatest Conservation Need identified in the Virginia Wildlife Action Plan, which can be found at: http://bewildvirginia.org;

- Significant habitat for terrestrial wildlife and birds (for instance, habitat for rare species, important breeding sites, or migratory stopovers);

- Other unique or important terrestrial vegetation (for instance, foraging areas, stands of mature forest, or wilderness study areas);

- Aquatic life: fisheries, vegetation (including submerged aquatic vegetation), benthic organisms, shellfish growing area; (If so, indicate whether the Virginia

Department of Health has issued a shellfish condemnation notice for the subject waters.)

- Anadromous Fish use Areas, trout streams, and colonial waterbird nesting colonies;

- Historic structures, listed or eligible for listing on the *Virginia Landmarks Register* or the *National Register of Historic Places*; (See Appendix 6 for guidance on the information that should be provided.)

- Archaeological sites; (See Appendix 6 for guidance on the information that should be provided.)

- Agricultural land, either prime or important (as defined by the Natural Resources Conservation Service, the Virginia Department of Agriculture and Consumer Services, or the local ordinance), or farming operations; (See Appendix 5 for characteristics to be considered.)

- Forest land, including predominant tree species and any endangered, threatened, or rare tree species; (See Appendix 5 for characteristics to be considered.)

- Tidal and non-tidal wetlands (delineation may be required). The review of National Wetland Inventory (NWI) maps should always be used in conjunction with field observations for determining whether wetlands or other surface waters are present; and a wetland delineation may also be required;

- Streams, rivers, lakes, and ponds on or near the site. The EIR should include information about flow volumes (available at the Richmond office of the U. S. Geological Survey Water Resources Division or DEQ's Charlottesville Field Office) and water quality (available from DEQ's most recent biennial Section 305(b) Water Quality Assessment Report to the U.S. Environmental Protection Agency (EPA)). Stream segments with water quality problems can also be identified from DEQ's Section 303(d) list of impaired waters. Also, indicate whether stream segments at the site are protected by designated DEQ Special Water Quality Standards, or are located within identified trout waters; report any record of prior fish kills or petroleum releases in the project vicinity. The status of the waterbody under the Department of Conservation and Recreation's Nonpoint Source Assessment should be documented;

- Watersheds of significant importance for public water supplies (such as wellhead protection zones, or watershed protection zones designated by local

ordinance). Where watershed management plans have been (or are being) developed by localities, the EIR should acknowledge the existence of these planning efforts;

- Chesapeake Bay Preservation Areas, to include, but not limited to, a site plan or map showing the limits of Resource Protection Areas and/or Resource Management Areas and the proximity of these features to any proposed structures or planned land disturbance on the project site; (See Appendix 7 concerning the type of information that is necessary.)

- Virginia Coastal Resources Management Area (Tidewater); (See Appendix 8 for a list of the Enforceable and Advisory Policies of Virginia's Coastal Program.)

- The 100-year Floodplain; (Construction of state-owned buildings in the 100-year floodplain must comply with Executive Memorandum 2-97 concerning the floodplain policies and requirements for state agencies.)

- Ground water characteristics (the types of aquifers present; wells on or near the property that draw water from the aquifer). If ground water withdrawal is proposed, indicate whether the project site is located within a State Water Control Board designated Ground Water Management Area and if anticipated withdrawal will exceed 300,000 gallons of water in any month. The total volume of water to be withdrawn, both monthly and annually, should be clearly documented;

- All parks and other recreation areas (federal, local, state, or private) near the project site including, but not limited to, recreation and open space resources identified by the *Virginia Outdoors Plan* (Department of Conservation and Recreation); if applicable, provide information on public access to the shoreline and waterways;

- Important natural areas (for instance, wildlife refuges and wilderness areas, important natural areas identified by public agencies, and important private conservation areas);

- Important scenery and scenic resources (for instance, views of important landmarks or natural features);

- Air quality; (This section may include a discussion of how the construction or operation of the facility will cause air pollution emissions and how fugitive dust will be controlled, and indicate whether open burning activities will occur and

if the project site is located within (i) a nonattainment area for criteria pollutants such as ozone, (ii) a state designated Volatile Organic Compound and/or Nitrogen Oxides Emissions Control area, (iii) a Prevention of Significant Deterioration Area, or (iv) 10 kilometers of a federally designated Class 1 (pristine) area.)

- Geology and mineral resources, caves, and sinkholes, including identification of site-specific geologic and mineral resources from data and maps at an appropriate scale; and

- Other important resources such as designated scenic rivers, Virginia Byways, and important natural communities.

4. Alternatives.

This section should discuss alternatives to the project, or why no alternatives were considered. The alternatives discussion should explore whether there are other ways to achieve the purpose that will be served by the project.

The EIR should demonstrate consideration and analysis of the environmental impacts of the alternatives, as well as the program and fiscal impacts to the agency. Where adverse environmental impacts of the preferred alternative are likely to be severe, controversial, or unacceptable, the alternatives analysis will be more important to the project review.

Identification of alternatives should not be limited to site selection. There are four types of possible alternatives:

- Alternative sites. A discussion of alternative sites is essential if land is to be acquired, or if the preferred site is environmentally sensitive or controversial.

- Alternative designs on the proposed site. Site plans can sometimes be revised to avoid impacts on resources on or near the parcel. This often helps to reduce environmental impacts to acceptable levels.

- Alternative methods of operation, including more efficient uses of the proposed facility.

- No-action alternative. The no-action alternative means not pursuing the project. This alternative must be considered even if the proponent agency thinks it is undesirable.

5. Mitigation (measures to avoid or minimize environmental impacts).

The proponent agency must discuss measures that avoid or minimize the environmental impacts of the preferred alternative (mitigation). The purpose of this discussion is to identify, for reviewers, actions that can reduce or compensate for loss of environmental resources. Reviewers will consider whether the proposed mitigation is sufficient to avoid or make up for adverse impacts. Extra mitigation effort is warranted if the environmental impacts of the project are severe and unavoidable.

Mitigation measures in the state project development process are not limited to those which may be required as permit conditions. In certain instances, the application of other state policies may warrant that state agencies exceed permit requirements in carrying out their responsibilities. For example, the EIR must incorporate the Commonwealth's pollution prevention policy pursuant to the *Code of Virginia* §10.1-1425.11. This policy establishes an environmental protection hierarchy, with pollution prevention as the most desirable environmental management option. Other options include, in descending order of preference, reduction of waste at the source, reuse, recycle, treatment, and disposal in an environmentally sound manner. Based on House Joint Resolution 453 passed in 1995, capital projects should be coordinated with ongoing pollution prevention planning activities and constructed in accordance with pollution prevention principles.

In preparing their EIR, proponent agencies are encouraged to include mitigation as part of the project design. Discussion of other actions that the agency has considered, even though they were rejected, should be included. This provides further evidence of the agency's effort to avoid significant environmental impacts. DEQ encourages proponent agencies to clearly present their mitigation commitments, including:

- mitigation measures to which the proponent agency is willing to commit; and
- measures that the proponent agency has considered but does not intend to pursue. (This helps the reviewing agencies avoid duplicating analysis that has already been performed.)

Innovative pollution prevention strategies and conservation methods promoting low-impact development should be incorporated in the design of new facilities. The following examples are features which should be considered:

Pollution Prevention

- Heavy construction equipment must be properly tuned, maintained, and fueled with a low sulfur content diesel fuel to reduce emissions;
- Construction areas should be watered frequently to reduce dust and construction activities should be suspended during high winds;
- Non-toxic paints, stains, and preservatives and chemical-free carpeting should be used;
- Stations to recycle materials such as paper, cardboard, aluminum, and plastics should be incorporated. In addition to collecting recyclable materials, recycled goods should be procured to help stimulate marketing of these products;
- Use innovative stormwater management techniques such as rain gardens, infiltration swales and stormwater wetlands;
- The use of herbicides or pesticides for landscape maintenance should be in accordance with the principles of integrated pest management. The least toxic pesticides that are effective in controlling the target species should be used. In ozone non-attainment or maintenance areas, the use of pesticides or herbicides that contain volatile organic compounds, should be curtailed, substituted with an alternative product free of volatile organic compounds, or scheduled outside of the ozone season.

Water Conservation

- Grounds should be landscaped with hardy native plant species to conserve water as well as lessen the need to use fertilizers and pesticides.
- Low-flow toilets should be installed in new facilities.

Energy Conservation

- Energy-efficient heating and cooling, proper building insulation, and the use of energy-efficient lighting should be incorporated in the design of new facilities.

The liberal use of native species of trees in landscaping can also help to reduce cooling costs.

- Leadership in Energy and Environmental Design (LEED): The U.S. Green Building Council (USGBC) is a non-profit organization that certifies sustainable buildings. USGBC has developed the LEED Green Building Rating System for evaluating sustainable concepts incorporated in the building and site development. LEED addresses all building types and emphasizes state-of-the-art strategies in five areas: sustainable site development, water savings, energy efficiency, materials and resources selection, and indoor environmental quality. The Department of General Services, Division of Engineering and Buildings (DEB), encourages state agencies and their architectural and engineering designers to recognize and incorporate the energy, environmental, and sustainability concepts listed in the LEED Green Building Rating System into the development and procurement of their projects. For more information on the LEED rating system visit: http://www.leedbuilding.org.

- Incorporation of DEB NOTICE 1232006 – LEED – effective 1/23/06.

- Incorporation of Governor's Executive Order 2007 No. 48, dated 4/5/07 – Energy Efficiency in State Government, which in part reads "All agencies and institutions constructing state-owned facilities over 5,000 square feet in size……..shall be designed and constructed consistent with the energy performance standards at least as stringent as the U.S. Green Building Council's LEED rating system (including the use of Virginia forest products with alternate certification) or the U.S. Environmental Protection Agency/Department of Energy's "Energy Star" rating."

DEQ's comments and recommendations about a project's impact are based on the mitigation commitments stated in the EIR. DEQ may recommend against proposed measures that are not necessary or effective or may propose additional or substitute measures. The Secretary of Administration may condition project approval on the commitments of the proponent agency and additional recommendations by DEQ.

The desirability of a mitigation measure is determined by its effectiveness in reducing or avoiding an adverse environmental impact or otherwise enhancing environmental values. From most desirable to least, mitigation includes:

- Avoiding an impact. This is most useful where the project will give rise to irretrievable loss of a resource in short supply (e.g., non-tidal wetlands) and

where the alternatives analysis identifies feasible site-plan alternatives. It is the best form of mitigation.

- Reducing impacts in scale or type. If an adverse impact cannot be avoided, it should be minimized (for instance, paved areas may be reduced in size, or a conventional pavement replaced by porous pavement in order to minimize stormwater runoff).

- Compensating for lost resources or land area. Where there is no way to avoid or reduce the loss of an important resource, and compensation is achievable, then it should be included in the project proposal. Compensation includes replacement in a new location; preservation of other, similar resources (offsets); or preservation of other resources of similar value. If compensation is the chosen alternative, then safety factors should be considered (for example, creation of additional wetlands to offset the loss) in order to ensure effective function and value of the lost resource. For some resources, compensation is possible; for others, it is not. There are no accepted ways, for example, to compensate for the loss of an acre of farmland or an historic structure.

Mitigation supplements, but does not substitute for, innovative resource conservation measures on the part of state agencies. As a general rule, agencies are encouraged to include resource conservation as integral parts of their project plans. For instance, recycling of materials as a part of project operation is expected of all state agencies and does not qualify as mitigation.

6. Irreversible environmental changes.

The final section of the EIR, the discussion of irreversible environmental changes, is an opportunity to demonstrate understanding of the long-term impacts, if any, of the project's construction and use. This section should indicate whether the project will cause a permanent impact on air quality or water quality, or whether it will consume significant land and water resources, or whether it will generate other demands on the natural resources of the immediate or surrounding area. Losses of significant resources, such as historic or archaeological sites, should be identified, as well.

Examples of irreversible environmental changes that should be identified:

- reduction or alteration of the flow of water in a stream or river;

- disturbance or destruction of archaeological sites;

- disturbance, destruction or alteration of a wetland, in any way;
- permanent clearing or construction within a scenic area.

C. Guidelines for Preparing Two-Part EIRs

1. Preparation of the EIR document should reflect the nature of the project proposal and limitations of information available. Where land acquisition for facility construction is proposed and site design information is not available, an initial EIR should be prepared to facilitate environmental review of the site selection (Part 1), and a follow-up EIR should be prepared for the development of the site (Part 2).

Where no acquisition is proposed, a single document that provides requisite information about the selected site and the proposed design is sufficient. (See discussion of Part 2 on pages 26-28.)

2. PART 1: Information for Site Selection or Site Acquisition

A. A Part 1 EIR should evaluate the selection or acquisition of a site. Part 1 allows agencies to evaluate the suitability of alternative sites for the proposed facility. Environmental liabilities and sensitive resources can be identified early, and the cost of mitigation strategies (to avoid or reduce impacts, or to avoid or clean up hazards) can be assessed in selecting the best site. The DEQ review focuses on whether agencies have selected and evaluated alternative sites, and on whether agencies have conducted accurate analyses of their preferred sites and incorporated those analyses into their purchase decision.

B. Part 1 of the EIR must be submitted in sufficient time to allow review and comment before a purchase contract is signed. This part of the EIR should demonstrate that the proposed site is suitable for the proposed use. The material submitted should provide a clear concept of the project that is proposed, environmental criteria that were used in the selection process, and characteristics of the property that constrain or enhance its use for the intended purpose. Part I of the EIR should include:

1. Project justification (from the Planning or Capital Budget Proposal);

2. Alternatives to construction of facility; (If an analysis of alternatives was prepared for the Capital Project Request, it should be included in Part I of the EIR.)

3. Description of the proposed facility in as much detail as known at this stage, including:

    a. Description of the facility design concept; (Describe needed site clearing/leveling, the size and height of buildings, location of roads, location of parking lots, outdoor lighting, proposed landscaping, type of construction and materials, planned starting date and duration of construction, etc.)

    b. Planned use and scope of action; (Describe the nature of activities that will be conducted on the property and the anticipated volume of activity and resource impacts - for instance, water consumption, traffic generation, wastewater discharge, air emissions, etc.) and

    c. Typical or proposed site layout (include a sketch plan of how the facility would be laid out on the proposed site).

4. Site selection criteria (should be developed and presented according to requirements for the Planning Study for Capital Requests that is prepared by the Department of Planning and Budget);

5. Alternative sites considered; (DEQ recommends that at least three sites within the facility's service area be evaluated and compared, and reasons demonstrated for selecting the preferred site.)

6. A map and description of the physical characteristics of the preferred site, including:

    a. Current use, structures, infrastructure, and improvements on proposed and surrounding parcels (include site survey);

    b. Topography of the site and surrounding area (include topographic map);

    c. Physical features of site, including vegetation, rock outcrops, streams, rivers, wetlands, and other surface water; soil types; and other resources of concern listed on pages 16-19;

d. All constraints to site design including local building restriction lines, highway setback lines, easements, covenants, reservations, and right-of-ways of record; and

e. Parcel size and shape (include site survey plat).

7. Proof that a competent environmental hazards inspection of the proposed site has been performed, along with a report on the findings of that inspection. Agencies may wish to contact DEQ-Division of Land Protection and Revitalization (formerly DEQ Waste Division) for assistance in conducting or contracting for a hazards inspection;

8. A map and description of sensitive features of the proposed site that would be affected by the proposed project. The accurate depiction of resources that will be affected by proposed facility development is needed to determine the feasibility of alternative designs and mitigation measures as the project proceeds. Showing a general location is often sufficient when the resources are present on the property but are not within the likely area of project impact;

9. Unavoidable adverse impacts if the concept facility is developed on the preferred site. The EIR should discuss how the design concept, construction and planned use will alter existing site characteristics and resources. Examples include:

   a. Changes in flow and quality of stormwater runoff that will adversely affect existing streams, rivers, wetlands, or other surface waters; and
   b. Existing structures to be altered or demolished. (If demolition is contemplated, a separate demolition review is required by the Division of Engineering and Buildings, including screening for asbestos-containing materials and lead-based paint. If it is contemplated in order to make room for the project under review, the demolition review information should be part of the EIR);

10. Conflicts between the proposed action and local plans or zoning ordinances that apply to the area; and

11. Proposed mitigation for unavoidable impacts (mitigation proposals are conceptual at this point, and will be implemented in site design and verified during the Part 2 EIR review).

3. PART 2: Information for Design and Construction

A. An environmental review of the site design (Part 2) helps agencies to evaluate the specific impacts imposed on sensitive resources and assess the success of alternative mitigation strategies in reducing project impacts. DEQ's review focuses on assuring that agencies have incorporated applicable environmental policies into their facility designs.

B. Where a Part 1 EIR has already been prepared to accommodate land purchase, the Part 2 review ensures that the facility design conforms to environmental constraints already identified on the selected site. Part 2 provides the proponent agency with the opportunity to demonstrate that it has evaluated and adopted reasonable design and mitigation alternatives consistent with the Commonwealth's environmental policies.

C. The Part 2 report should be based on preliminary design drawings, if possible, or on the conceptual drawings of the planning study. Preparation of the report and DEQ's review should occur before the final site design is completed. DEQ's review will focus on whether the report accurately describes unavoidable environmental impacts and on the proponent agency's commitment to avoid or reduce those impacts. DEQ may also recommend additional measures to avoid or reduce adverse impacts if appropriate and if the benefits of the additional measures outweigh the costs to carry them out. Information needed for the Part 2 review includes:

1. The Part 1 report and supporting material, along with DEQ's prior comments on the site acquisition proposal, if any. If the project is part of a master plan for which an EIR has been prepared, that EIR should be included, as well;

2. Discussion of any conditions imposed by the Governor or General Assembly that affect or relate to environmental performance;

3. Identification of environmental resources adversely affected by the proposed design; (See section on affected resources on pages 16-19 under Impacts of the Project.)

4. Alternative designs or actions to avoid or reduce the loss of environmental resources, including those reflected in the proposed design, as well as those rejected due to cost or technical infeasibility. If no alternatives were considered, the report should discuss why they were omitted; and

5. A preliminary site plan that shows the following:

    - slopes greater than 15%,
    - existing storm drainage systems,
    - natural and artificial watercourses,
    - Chesapeake Bay Resource Protection Areas and Resource Management Areas, where applicable,
    - limits of the 100-year floodplain,
    - limits of any wetlands on the site,
    - location and limits of major soil categories,
    - the location, dimension, size, and height of the following elements of the project, in as much detail as available, including:

        - sidewalks, streets, alleys, easements, and utilities;
        - existing and proposed buildings and structures;
        - off-street parking facilities;
        - on-site sewage treatment/disposal systems and sanitary sewer lines, on-site water supply systems or public water mains and hydrants;
        - slopes, terraces, retaining walls;
        - proposed storm drainage systems;
        - finish grading (two-foot contour interval within 100 feet of all buildings and maximum five-foot contour interval on remainder of property);
        - outdoor lighting;
        - shore stabilization structures.

APPENDIX 1

Forms

FORM 1 - Worksheet for determining if an Environmental Impact Report (EIR) is required

Project Name: _____

Project Description: _____

_____

_____

_____

Answer the following questions to determine whether an EIR is required:

____ Does this project propose acquisition of land on which a state facility will be built, where the total project cost is expected to be $500,000 or more?

____ Does this project propose a lease that will result in construction or expansion of a structure, and propose a lease cost of $500,000 or greater? (Lease cost = annual lease amount X number of years.)

____ Does this project propose construction of a new facility on state-owned land that will cost $500,000 or more?

____ Does this project propose expansion of an existing state facility that will cost $500,000 or more?

If you answered "yes" to any of the above questions, an environmental impact report is required. You should carefully consider the information in this manual, and discuss the project with the Department of Environmental Quality (DEQ). If you require written concurrence from the DEQ about whether an EIR must be submitted, please contact the Environmental Impact Review Coordinator (804-698-4330).

FORM 2 - Notice of Intent to Submit an EIR for Review

The Department of Environmental Quality (DEQ) is advised that an Environmental Impact Report for the project identified herein will be forwarded for the DEQ's review on or about _____ (DATE).

Signature of Agency Contact:_____

Agency Contact:_____

Phone: _____

Agency Proposing the Project: _____

_____

Project Name: _____

_____

Project Number: _____ Budget Code:_____

Briefly describe the proposed project:

_____

_____

_____

_____

_____

_____

APPENDIX 2

Review Responsibilities of the
Department of Environmental Quality

Environmental Review Responsibilities
of the Department of Environmental Quality

- Major state facilities: Virginia Code §10.1-1188 to 10.2-1192
- Electric Generating Plants and Associated Facilities (State Corporation Commission) Virginia Code §56-46.1; SCC-DEQ 2002 MOU
- Airport runway construction and extension: Virginia Code §5.1-7
- Oil and gas drilling proposals in Tidewater Virginia: Virginia Code §62.1-195.1
- Farm and forest lands preservation during project planning for major state projects: Virginia Code §3.2-204 through §3.2-205
- Mineral activities on state-owned lands: Virginia Code §2.2-1157 (implemented by the "Minerals Management Plan," Commonwealth of Virginia)
- Hydropower projects (State agencies' responses to notices of proceedings by the State Water Control Board to consider certifications under 33 U.S.C. 1341): Virginia Code §10.1-1186(8)
- Federal environmental assessments and environmental impact statements: 40 CFR 1500-1508 (National Environmental Policy Act)
- Consistency of federal actions with Virginia's Coastal Zone Management Program: 15 CFR 930.3 (Coastal Zone Management Act) - implemented by Executive Order Number13 (86) and subsequently renewed every 4 years, the most current is EO18 (2010)

APPENDIX 3

Major State and Federal Permits

Agencies Frequently Involved in Reviewing Environmental Impact Reports

Department of Environmental Quality – Regional Offices

Major State and Federal Permits and

Approvals Applicable to Facility Development

- Army Corps of Engineers (Section 404, Clean Water Act, for the discharge of dredge or fill materials into waters of the United States, including associated wetlands; Section 10, Rivers and Harbors Act, for obstructions to navigable waterways);

- State Water Control Board - Virginia Water Protection Permit (Constitutes Clean Water Act Section 401 Water Quality Certification; Virginia Code § 62.1-44.15 & § 62.1-44.15:5);

- Marine Resources Commission (encroachments in, on, or over State-owned bottomlands or tidal wetlands (Virginia Code §28.2-101; 28.2-1200.1); sand dune impacts (§28.2-1401).

- Plan approvals by the Department of Conservation and Recreation (DCR) for Erosion and Sediment Control Plans (Virginia Code §10.1-567) and/or Stormwater Management Plans (§10.1-603.1 et seq.) (lower thresholds apply in Chesapeake Bay Preservation Areas);

- Discharge, no-discharge, and other permits administered by the State Water Control Board (Section 402 of the Clean Water Act and Virginia Code §62.1-44.2 through 62.1-44.34:23);

- New source, Prevention of Significant Deterioration, and other permits administered by the Air Pollution Control Board (Virginia Code §10.1-1300 et seq.);

- Hazardous material handling, treatment, storage, disposal, transportation permits administered by the DEQ-Division of Land Protection and Revitalization (Virginia Code §10.1-1400 et seq.);

- Solid waste disposal facility permits administered by the DEQ-Division of Land Protection and Revitalization (previously called Waste Division) (Virginia Code §10.1-1400 et seq.).

- For projects located in Tidewater Virginia, the activities must be consistent with the requirements of the local ordinance developed pursuant to the Chesapeake Bay Preservation Act. Site plans may be submitted to the DCR Division of Stormwater Management-Local Implementation (DSM-LI) previously called the Division of Chesapeake Bay Local Assistance for review and approval (Virginia Code §10.1-2114).

- State agencies, upon receipt of a request from a locality, shall transmit a copy of the construction and site plans to the locality for comments. Also, DEQ shall distribute a copy of the EIR to the locality (Virginia Code § 15.2-2202).

State Agencies Frequently Involved

in Reviewing Environmental Impact Reports

Dept. of Agriculture & Consumer Services

Washington Building, Capitol Square

1100 Bank Street

Richmond, Virginia 23219

(804) 786-2373

Dept. of Game & Inland Fisheries

4010 West Broad Street

Richmond, Virginia 23230

(804) 367-1000

DCR-Division of Stormwater Management –

Local Implementation

900 East Main St., 8th Floor

Richmond, Virginia 23219

(804) 225-3440

Dept. of Health

109 Governor Street, 6th Floor

Richmond, Virginia 23219

(804) 864-7000

Dept. of Conservation & Recreation

203 Governor Street

Richmond, Virginia 23219

(804) 786-7964

Dept. of Historic Resources

2801 Kensington Avenue

Richmond, Virginia 23221

(804) 367-2323

Dept. of Environmental Quality

Office of Air Data Analysis

629 East Main Street, 8th Floor

Richmond, Virginia 23219

(804) 698-4000

Dept. of Mines, Minerals & Energy

900 Natural Resources Dr #500

Charlottesville, Virginia 22903

(434) 951-6340

Dept. of Environmental Quality
Division of Land Protection and Revitalization
629 East Main Street, 5th Floor
Richmond, Virginia 23219
(804) 698-4000

Va. Institute of Marine Science
Rt. 1208, Greate Road, P.O.
Box 1346
Gloucester Point, Virginia 23062
(804) 684-7000

Dept. of Environmental Quality
Water Division
629 East Main Street, 9th Floor
Richmond, Virginia 23219
(804) 698-4000

Virginia Marine Resources
Commission
2600 Washington Avenue
Newport News, Virginia 23607
(757) 247-2200

Virginia Dept. of Forestry
900 Natural Resources Dr., Ste. 800
Charlottesville, Virginia 22903
(434) 977-6555

Virginia Dept. of Transportation
1401 East Broad Street
Richmond, Virginia 23219
(804) 786-2801

DEPARTMENT OF ENVIRONMENTAL QUALITY

Regional Offices

Blue Ridge Regional Office:

South Central location
7705 Timberlake Road
Lynchburg, VA 24502
434/582-5120
434/582-5125 FAX

West Central location
3019 Peters Creek Road, NW
Roanoke, VA 24019
540/562-6700
540/562-6860 FAX

Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193
703/583-3800
703/583-3821 FAX

Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462
757/518-2000
757/518-2103 FAX

Piedmont Regional Office
4949-A Cox Road
Glen Allen, VA 23060-6295
804/527-5020
804/527-5106 FAX

Valley Regional Office
P.O. Box 3000
Harrisonburg, VA 22801
540/574-7800
540/574-7878 FAX

Southwest Regional Office
355 Deadmore Street
P.O. Box 1688
Abingdon, VA 24212-1688
276/676-4800
276/676-5564 or 4899 FAX

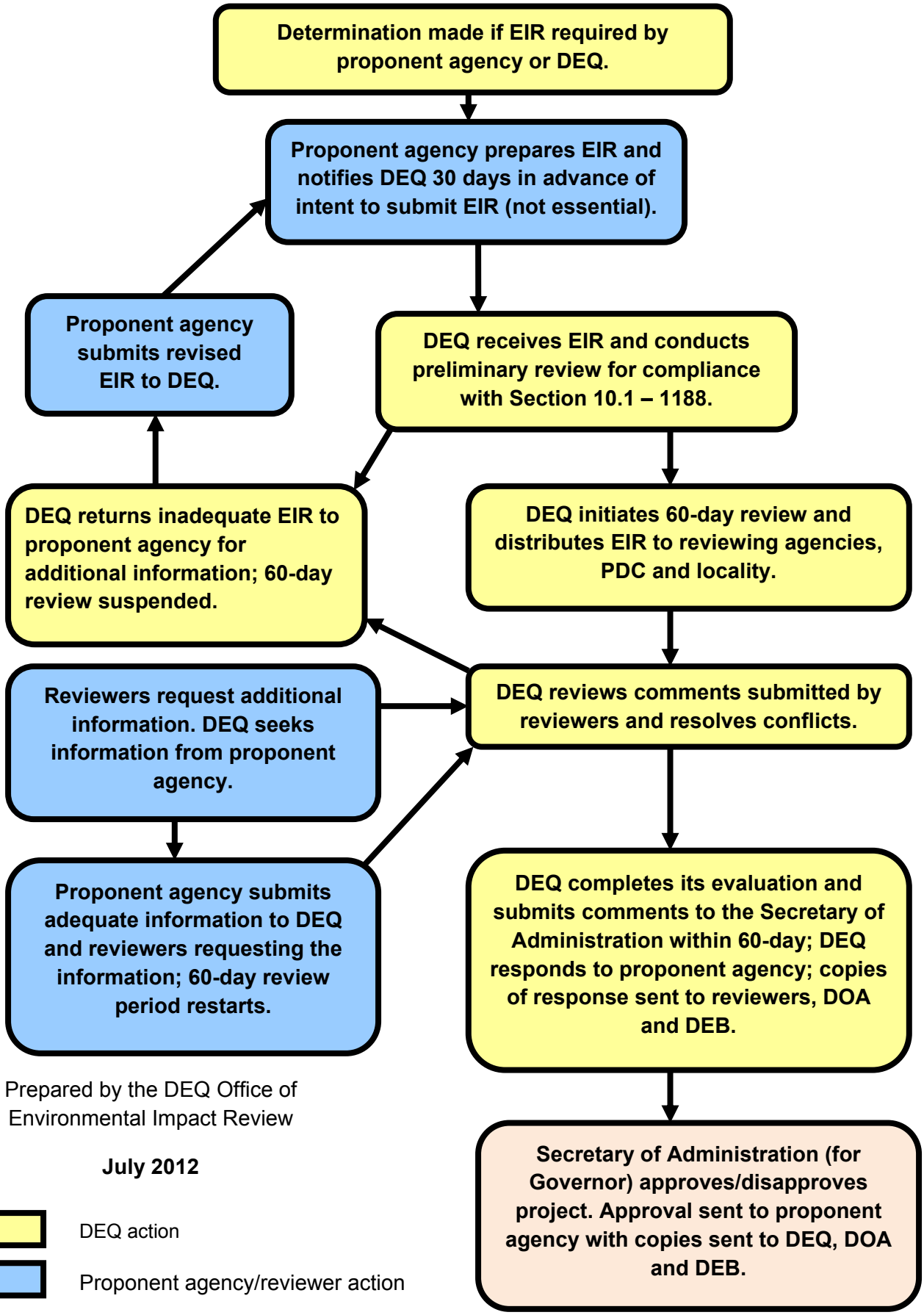
APPENDIX 4

Schematic Representation of the State
Environmental Impact Report Review Process

Schematic Representation of the State Review Process for Airport Projects
subject to Virginia Department of Aviation License/Permit Requirements

Schematic Representation of the State Review Process for Federal
Projects subject to National Environmental Policy Act Requirements

Commonwealth's Environmental Impact Report Review Process

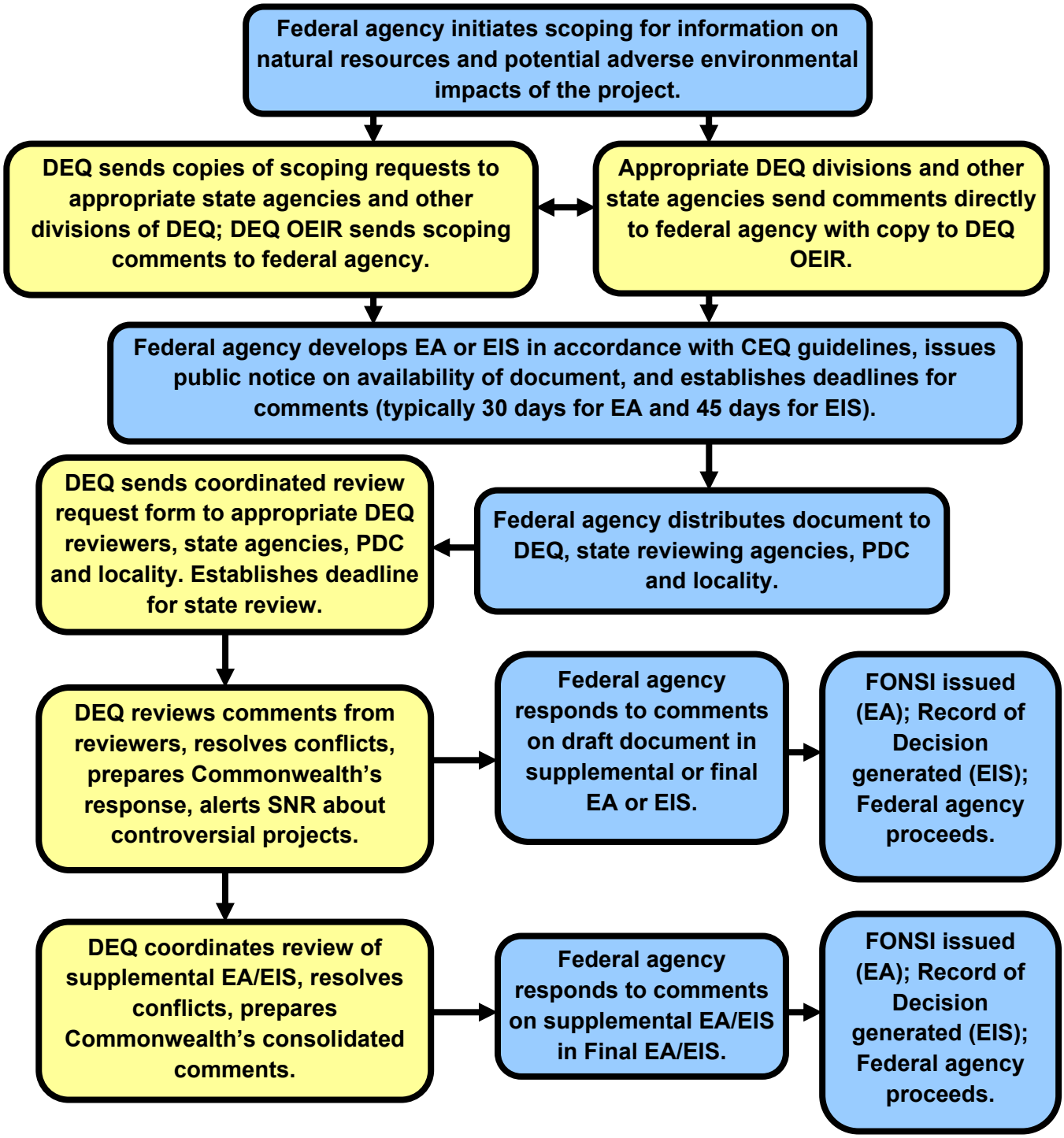


Prepared by the DEQ Office of Environmental Impact Review

July 2012

COMMONWEALTH'S REVIEW PROCESS

Federal Projects Subject to NEPA Requirements



Prepared by the DEQ Office of Environmental Impact Review

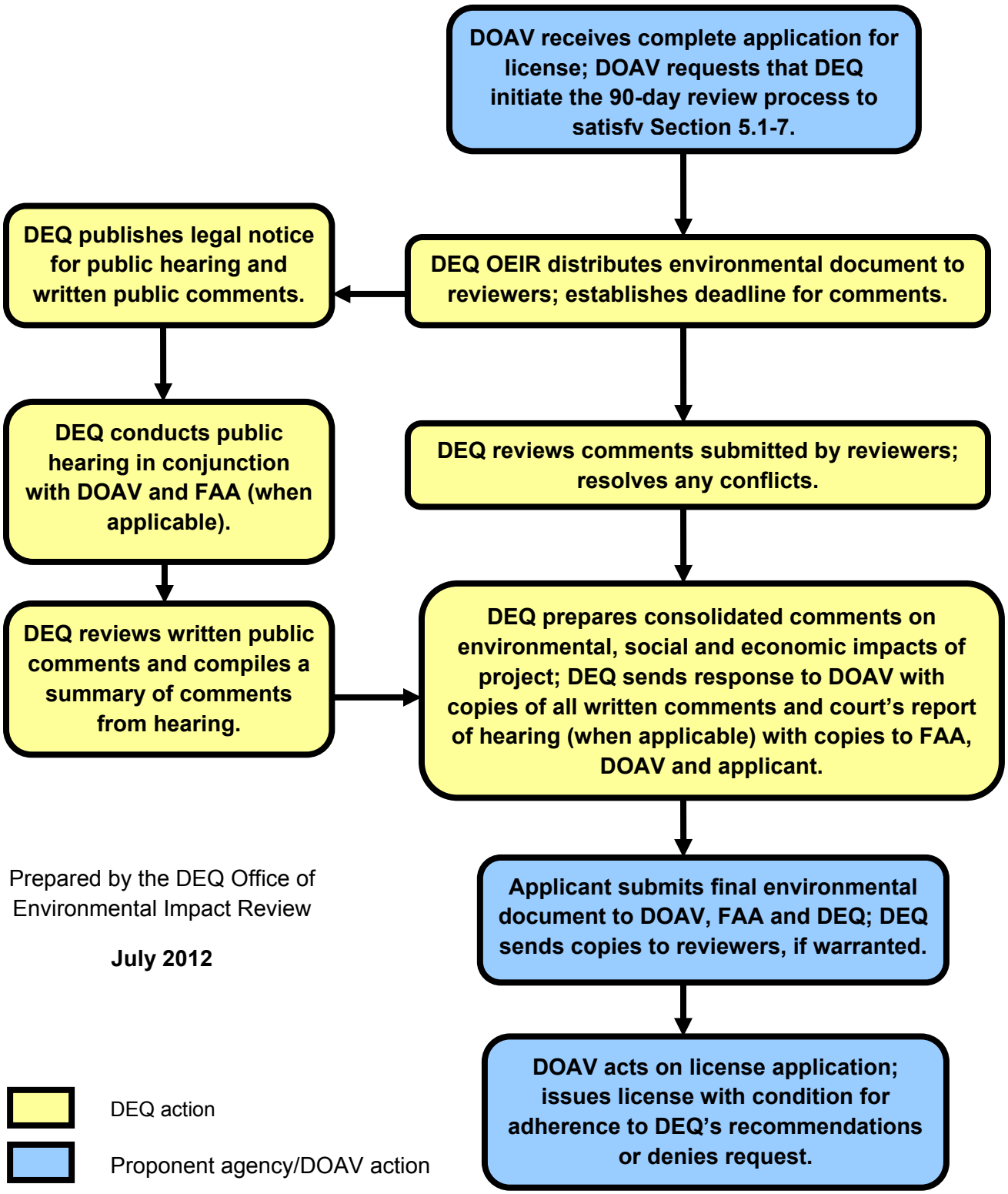
July 2012

DEQ/state action

Federal action

COMMONWEALTH'S REVIEW PROCESS

Airport Projects Subject to Virginia Department of Aviation's License/Permit Requirements



Prepared by the DEQ Office of Environmental Impact Review

July 2012

APPENDIX 5

Checklist for Farm and Forest Lands Protection

Considerations for Evaluating Impacts on Farm and Forest Lands

Checklist for Farm and Forest Lands Protection

ENVIRONMENTAL IMPACT REPORT:
CHECKLIST FOR FARM AND FOREST LANDS PROTECTION

		Yes	No	Source and Date of Information*
1.	**Does the land contain class 1, 2, 3, or 4 soils?** *(Contact the Natural Resource Conservation Service or USDA/Farm Service Agency)***			
2.	**Does the land have exceptional physical characteristics for the production of food, feed, fiber, forest products, forage, oilseed, vineyards and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion?** *(Contact the Agricultural Extension Agent for the county, city, or town)***			
3.	**Is the land valuable for the production of specific high-value food, forestry, and fiber crops (vineyards, vegetable crop land, tobacco)?** *(Contact the Agricultural Extension Agent for the county, city, or town)***			
4.	**Is the land of statewide or local importance for the production of food, feed, fiber, forest products, forage or oilseed crops?** *(Contact the Agricultural Extension Agent for the county, city or town)***			
5.	**Has the land been recognized under a state program such as Clean Water Farm Award, Tree Farm or Stewardship Program, or the Century Farm Program?** *(Contact VDACS about Century Farms, 804-786-2373, DOF about Tree Farm or Stewardship Program, 804-977-6555, and DCR about Clean Water Farm Award, 804-786-3999)*			
6.	**Is the land part of an agricultural or forestal district or is the land part of a use value assessment and taxation program for real estate devoted to agricultural, horticultural or forest use in accordance with the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1)?** *(Contact the county, city or town zoning or planning departments and local commissioners of revenue)*			
7.	**Does the land make a significant contribution to the local economy or the rural character of the area in which the land is located?** *(Contact the county, city or town planners and Agricultural Extension Agent for the county, city or town)***			

Characteristics to be considered in evaluating impacts on farm and forest lands

(§ 3.2-205, Effective October 1, 2008)

A. In preparing environmental impact reports in accordance with § 3.2-204, state agencies shall consider the impact of the major state project on all farm and forest lands that:

1. Have soil classified as capability class I, II, III, or IV;

2. Have an exceptional combination of physical characteristics for the production of food, feed, fiber, forest products, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion;

3. Are valuable for production of specific high-value food and fiber crops, such as fruits, vegetables, and nursery crops and have a special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of such crops when treated and managed according to acceptable farming methods;

4. Are of statewide or local importance for the production of food, feed, fiber, forest products, forage, or oilseed crops;

5. Have been recognized under a state program such as the Clean Water Farm Award or the Century Farm Program;

6. Are part of an agricultural or forestal district or are participating in a use value assessment and taxation program for real estate devoted to agricultural, horticultural, or forest use in accordance with the provisions of Article 4 (§ 58.1-3229 *et seq*.) of Chapter 32 of Title 58.1; or

7. Make a significant contribution to the local economy or the rural character of the area where the land is located.

B. The governing body of each locality, with the cooperation of the U.S. Department of Agriculture, may designate the important farmlands within its jurisdiction. In designating important farmlands the governing body shall demonstrate that adequate provision has been made for nonagricultural uses within its jurisdiction.

C. As used in this chapter, "farmland" includes all land defined as follows:

- "Important farmland," other than prime or unique farmland, is land that is of statewide or local importance for the production of food, feed, fiber, forage, nursery, oilseed, or other agricultural crops, as determined by the appropriate state agency or local government agency, and that the U.S. Department of Agriculture determines should be considered as farmland for the purposes of this chapter;

- "Prime farmland" is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, nursery, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides, and labor, and without intolerable soil erosion. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage; and
- "Unique farmland" is land other than prime farmland that is used for production of specific high-value food and fiber crops, as determined by the U.S. Department of Agriculture. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods.

APPENDIX 5A

Checklist for Forestland Protection

Characteristics to be considered when evaluating impacts on forestland

Checklist for Forestland Protection

	Yes	No	Source and Date of Information
1. **Have the Land Capability Classes (LCC) of the soils present in the impacted forest been identified?** (The NRCS Web Soil Survey can be used to determine this information (http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm))			
2. **Does the forestland possess a combination of physical characteristics important to the production of forest products with minimal inputs of fuel, fertilizers, pesticides, and labor and not be subject to intolerable erosion?** (Contact the Agricultural Extension Agent for the county, city, or town)**			
3. **Is the forestland valuable for the production of forest products and have a special combination of soil quality, slope, aspect, moisture supply, and species composition needed to economically produce sustained high quality or high yields of forest products when managed according to accepted silvicultural principles?** (Contact the Agricultural Extension Agent for the county, city, or town)**			
4. **Is the forestland of statewide or local importance in the production of forest products?** (Contact the Department of Forestry Forestland Conservation Division at (434) 977-6555)			
5. **Has the forestland been recognized under any state award or forestry recognition programs?** (Contact VDACS (804-786-2373) about Century Farms, DCR (804-786-9333) about Clean Water Farm Award, Department of Forestry Forest Management Division for other forestry recognition programs at (434) 977-6555)			
6. **Is the property part of an agricultural or forestal district or participating in use value assessment and taxation for real estate devoted to forest use?** (Contact local county government)			
7. **Does the forestland make a significant contribution to the local economy or the rural character of the area where the land is located?** (Contact the Department of Forestry Forestland Conservation Division at (434) 977-6555)			
8. **Does the preferred route or project site minimize the permanent loss of forestland?**			

9. **Is the impacted forestland found in a watershed that is important to a municipal water supply or is adjacent to waterways with TMDL (Total Maximum Daily Load) limits?** (Contact DCR at 804-786-3999 or county, city or town planners)			
10. **Has the importance of the forestland in providing ecosystem services and benefits (for example, water quality, water supply, air quality, biodiversity) been evaluated?** (Use the InFOREST ecosystem service calculators to assist with this (http://inforest.frec.vt.edu/))			
11. **Is the impacted forestland covered under a conservation easement?** (Use the InFOREST application mapping tool to locate conserved properties (http://inforest.frec.vt.edu/))			
12. **Does the project impact Virginia Department of Forestry properties designated as State Forests?** (Use the InFOREST application mapping tool to locate State Forests (http://inforest.frec.vt.edu/))			
13. **Do local and state ordinances, county comprehensive plans, local watershed management plans, etc. support forestland conservation in the geographical area impacted by the major project?** (Contact county, city or town planners)			
14. **What is the Forest Conservation Value of the impacted forest?** (Use the InFOREST application mapping tool to identify Forest Conservation Values (http://inforest.frec.vt.edu/))			
15. **Does the major project impact any unique natural areas or species of interest?** (Contact the Department of Forestry Forest Management Division at (434-977-6555) and Department of Conservation and Recreation Division of Natural Heritage (804-786-4554))			

Characteristics to be considered when evaluating impacts on forestland

In preparing environmental impact reports, state agencies shall consider the following questions about the forestland being impacted by a major project.

1. What are the Land Capability Classes (LCC) of the soils present in the impacted forest? The capability class, which is influenced by slope, can be a major factor in evaluating forest productivity and identifying sensitive sites. For example, it is important to retain forest cover on steep slopes which often have a LCC of V or VI.

2. Does the forestland possess a combination of physical characteristics important to the production of forest products with minimal inputs of fuel, fertilizers, pesticides, and labor and not be subject to intolerable erosion?

3. Is the forestland valuable for the production of forest products and have a special combination of soil quality, slope, aspect, moisture supply, and species composition needed to economically produce sustained high quality or high yields of forest products when managed according to accepted silvicultural principles?

4. Is the forestland of statewide or local importance in the production of forest products?

5. Has the forestland been recognized under state award or forest recognition programs? These could include Clean Water Farm Award, Century Farm Program, Soil and Water Conservation District Forestry Award, Certified Stewardship Forest, or a forest certification program such as Tree Farm, Sustainable Forestry Initiative, or Forest Stewardship Council?

6. Is the forestland part of an agricultural or forestal district or participating in use value assessment and taxation for real estate devoted to agricultural, horticultural, or forest use? The eligibility criteria for this can be found in VAC Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1.

7. Does the forestland make a significant contribution to the local economy or the rural character of the area where the land is located?

8. Does the preferred route or project site minimize the permanent loss of forestland? Has forest fragmentation and the permanent loss of forestland been considered in the project site selection process and was a priority given to limiting forestland loss as much as possible?

9. Is the impacted forestland found in a watershed that is important to a municipal water supply or is adjacent to waterways with TMDL (Total Maximum Daily Load) limits? The focus here is on how forestland loss in a municipal water supply watershed impacts a

localities water supply and water quality. Also, how does forestland loss and associated changes to nutrient and sediment loading impact any existing TMDL?

10. What is the importance of the impacted forestland in providing forest ecosystem services and benefits such as water quality and water supply, air quality, carbon sequestration, and biodiversity?

11. Is the impacted forestland covered under a conservation easement? This information will help determine the value of the property in meeting long-term state conservation priorities.

12. Does the project impact Virginia Department of Forestry properties designated as State Forests? The focus here is how land use change in the proximity of a State Forest impacts forest management and forest recreational opportunities.

13. Do local and state ordinances, county comprehensive plans, local watershed management plans, etc. support forestland conservation in the geographical area impacted by the major project? This information again will help determine the value of the property in meeting long-term state conservation priorities.

14. What is the Forest Conservation Value (FCV) of the impacted forest? See the InFOREST User Manual for a full explanation of the importance of determining the FCV of the impacted forest.

15. Does the project impact any unique natural areas or species of interest? An example would be Longleaf pine or other forest types the Commonwealth is endeavoring to save or propagate.

APPENDIX 6

Guidance for EIR Proponent Agencies
Concerning Architectural and Archeological Resources

Guidance for EIR Proponent Agencies Concerning Architectural and Archeological Resources

In order for the Department of Historic Resources (DHR) to effectively review and comment on how proposed undertakings may impact significant historic, architectural, landscape, and archaeological resources listed in or eligible for the Virginia Landmark Register, and to fulfill its responsibility under the Environmental Impact Report law (§ 10.1-1188 *Code of Virginia*), DHR requires the following information.

- The construction limits of the project area clearly marked on a USGS topographical map; and
- An Area of Potential Effects (APE), for direct and indirect impacts clearly delineated on a USGS topographical map and/or aerial map. An APE for direct impacts typically encompasses the construction limits of the project or the parcel on which construction will take place (typically the "project area"). A second APE for indirect impacts is the maximum geographic area where the project could have an impact on the setting of surrounding properties. The APE for indirect impacts factors in the viewshed of the project to all surrounding properties, as well as any secondary impacts such as noise, vibration, and reasonably forseeable consequences. Please carefully consider the boundaries of the APEs and include a written narrative justifying your boundaries, a ½-mile radius is typically not appropriate for most projects.
- A completed Data Sharing System (DSS) archives search within your APE for indirect impacts. The results of the search will include a USGS topographical map showing the boundaries of both your APEs and the location of known architectural and archaeological resources. An archives search may be completed in person at DHR's Richmond Office, through DHR's fee-based on-line system or by DHR Archives staff for a fee. For more information on how to request an archive search please reference the DHR website at http://www.dhr.virginia.gov/archives/archiv_searches.htm.
- Color photographs no smaller than 4 X 6 of the project area and its surrounding APE for indirect impacts. Please be sure to include photographs of any buildings or structures over fifty years old located in the APE for indirect impacts and accurately identify the location and direction in which the photograph was taken.
- Construction plans including, at a minimum, a site plan, architectural elevations, and any available renderings.
- Description of how the project will directly and indirectly impact historic, architectural and/or archaeological resources listed in or eligible for the Virginia Landmarks Register that are located in the APEs.

It is suggested that the applicant or its agent initiate consultation as early as possible with DHR while preparing the EIR to allow time for the completion of any recommended studies prior to finalizing the document for submission to DEQ. Early consultation may avoid unnecessary project delays. Please note that any archaeological studies conducted on state-controlled land must be permitted by DHR. The permit application can be found at http://www.dhr.virginia.gov/pdf_files/StateLandsApp.PDF.

For additional guidance on what to submit to DHR for review or additional questions about DHR's role in the EIR review process, please refer to DHR's website at www.dhr.virginia.gov/review/orcCoVPrjRev.html or contact Mr. Roger Kirchen, Archeologist, Office of Review and Compliance at (804) 482-6091 or via email at Roger.Kirchen@dhr.virginia.gov .

APPENDIX 7

Guidance on Necessary Information
in Chesapeake Bay Preservation Areas

Guidance on State Agency Consistency
with the Chesapeake Bay Preservation Act

Section 10.1-2114 of the Chesapeake Bay Preservation Act (the Bay Act) requires all state agencies to exercise their authorities consistent with comprehensive plans, zoning ordinances, and subdivision ordinances adopted by local governments to comply with the Chesapeake Bay Preservation Area Designation and Management Regulations (the Regulations). In May of 2000, the Bay Act was incorporated as one of the enforceable programs of Virginia's Coastal Zone Management Program (CZM Program). The Governor's Executive Order #21 requires agencies of the Commonwealth to conduct activities in a manner consistent with and supportive of the CZM Program. The Virginia Department of Conservation and Recreation, Division of Stormwater Management – Local Implementation (DSM-LI) (previously called Division of Chesapeake Bay Local Assistance), is the review authority for determining the consistency of state projects with the requirements of the Bay Act and the Regulations.

Proponent agencies are encouraged to contact the appropriate locality and DCR-CBLA during preparation of an environmental impact report (EIR) to ensure that state development projects are consistent with the requirements of the local zoning and subdivision ordinances and comprehensive plans.

Environmental review request documents should include all information necessary to enable DSM-LI staff to determine the extent to which a proposed project will impact Chesapeake Bay Preservation Areas (CBPAs), which include Resource Protection Areas (RPAs) and Resource Management Areas (RMAs), as designated by the locality in which the proposed project site is located, and whether the proposed project is consistent with the requirements of the Bay Act and the Regulations. If the environmental review request documents do not include sufficient information the applicant or proponent agency may be required by DSM-LI staff to provide any or all of the following:

- a map or scale drawing showing the limits of RPAs and/or RMAs and the proximity of these features to any existing or proposed land disturbance, development or redevelopment on the site;

- a water quality impact assessment (WQIA), or equivalent information for any proposed land disturbance, development or redevelopment activities in an RPA or RMA, as specified in the local Bay Act ordinance; and

- documentation showing that a site-specific perennial flow and/or nontidal wetland determination has been conducted to determine whether water bodies on or near the proposed development site have perennial flow or nontidal wetlands connected by surface flow, and if necessary, that RPA boundaries have been adjusted on the site, based on current conditions.

The applicant or proponent agency must show that the proposed development meets all the performance criteria under § 9 VAC 10-20-120 of the Regulations, including the

performance standards for RMAs and RPAs that require: a) no more land shall be disturbed than is necessary for the proposed use or development; b) indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed; and, c) land development shall minimize impervious cover consistent with the proposed use or development.

A stormwater management plan consistent with the stormwater management criteria and the water quality protection provisions of the Virginia Stormwater Management Regulations § 4 VAC 50-60-10 must be submitted for approval by DCR, Division of Stormwater Management (DCR-SWM) prior to any construction or land disturbing activities. An Erosion and Sediment Control Plan should be developed according to the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, and submitted to the DCR-SWM prior to any land disturbance activities.

Pursuant to § 9 VAC 10-20-105 of the Regulations, on-site delineation of the RPA is required for all projects in CBPAs. Because U.S. Geological Survey maps are not always indicative of actual "in-field" conditions, they cannot be used to determine the site-specific boundaries of the RPA. Projects that include any proposed land disturbance, development or redevelopment within the RPA must also satisfy the requirements of § 9 VAC 10-20-130 of the Regulations.

DCR-DSM-LI staff provide general comments and guidance at the conceptual stage of review when an environmental review request is initiated and less specific information is available. It is also often necessary for DCR- DSM-LI staff to request review of final site plans. General comments at the conceptual stage of review typically advise that the applicable requirements in the Regulations must be met, including erosion and sediment control and stormwater management requirements. To ensure that the project complies with the Regulations, applicants or proponent agencies must submit final site plans prior to any land disturbance, development or redevelopment, if requested. DCR-DSM-LI staff provide final site plan review regarding consistency with the Regulations through direct correspondence with the applicant or proponent agency. Other divisions within DCR provide similar final site plan review for erosion and sediment control and stormwater management plans.

For further guidance, questions, or concerns, contact DCR:

Department of Conservation and Recreation
Division of Stormwater Management - Local Implementation
900 East Main Street, 8th Floor
Richmond, Virginia 23219
1-800-243-7229
804-225-3440
Website: www.dcr.virginia.gov

APPENDIX 8

Virginia Coastal Zone Management Program
Enforceable and Advisory Policies

Enforceable Regulatory Programs comprising
Virginia's Coastal Zone Management Program (VCP)

a. Fisheries Management - The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (VMRC); Virginia Code 28.2-200 to 28.2-713 and the Department of Game and Inland Fisheries (DGIF); Virginia Code 29.1-100 to 29.1-570.

The State Tributyltin (TBT) Regulatory Program has been added to the Fisheries Management program. The General Assembly amended the Virginia Pesticide Use and Application Act as it related to the possession, sale, or use of marine antifoulant paints containing TBT. The use of TBT in boat paint constitutes a serious threat to important marine animal species. The TBT program monitors boating activities and boat painting activities to ensure compliance with TBT regulations promulgated pursuant to the amendment. The VMRC, DGIF, and Virginia Department of Agriculture Consumer Services (VDACS) share enforcement responsibilities; Virginia Code 3.2-3904 and 3.2-3935 to 3.2-3937.

b. Subaqueous Lands Management - The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, tidal wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality (DEQ). The program is administered by the Marine Resources Commission; Virginia Code 28.2-1200 to 28.2-1213.

c. Wetlands Management - The purpose of the wetlands management program is to preserve wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation.

(1) The tidal wetlands program is administered by the Marine Resources Commission; Virginia Code 28.2-1301 through 28.2-1320.

(2) The Virginia Water Protection Permit program administered by DEQ includes protection of wetlands --both tidal and non-tidal; Virginia Code §62.1-44.15:5 and Water Quality Certification pursuant to Section 401 of the Clean Water Act.

d. Dunes Management - Dune protection is carried out pursuant to The Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes. This program is administered by the Marine Resources Commission; Virginia Code 28.2-1400 through 28.2-1420.

e. Non-point Source Pollution Control – (1) Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by the Department of Conservation and Recreation; Virginia Code 10.1-560 *et seq.*).

(2) Coastal Lands Management is a state-local cooperative program administered by the DCR's Division of Chesapeake Bay Local Assistance and 84 localities in Tidewater (see i) Virginia; Virginia Code §10.1-2100 –10.1-2114 and 9 VAC10-20 *et seq*.

f. Point Source Pollution Control - The point source program is administered by the State Water Control Board (DEQ) pursuant to Virginia Code 62.1-44.15. Point source pollution control is accomplished through the implementation of:

(1) the National Pollutant Discharge Elimination System (NPDES) permit program established pursuant to Section 402 of the federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System (VPDES) permit program.

(2) The Virginia Water Protection Permit (VWPP) program administered by DEQ; Virginia Code §62.1-44.15:5 and Water Quality Certification pursuant to Section 401 of the Clean Water Act.

g. Shoreline Sanitation - The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Department of Health (Virginia Code 32.1-164 through 32.1-165).

h. Air Pollution Control - The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Virginia Code 10-1.1300 through §10.1-1320).

(i) Coastal Lands Management is a state-local cooperative program administered by the DCR's Division of Chesapeake Bay Local Assistance and 84 localities in Tidewater, Virginia established pursuant to the Chesapeake Bay Preservation Act; Virginia Code §10.1-2100 – 10.1-2114 and Chesapeake Bay Preservation Area Designation and Management Regulations; Virginia Administrative Code 9 VAC10-20 *et seq*.

Advisory Policies of Virginia's Coastal Resources Management Program for Geographic Areas of Particular Concern

Although not required for the purposes of consistency, in accordance with 15 CFR § 930.39(c), the federal agency should consider the advisory policies (recommendations) of the Virginia Coastal Resources Management Program as well.

- *Coastal Natural Resource Areas.* These areas are vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. Such areas receive special attention from the Commonwealth because of their conservation, recreational, ecological, and aesthetic values. These areas are worthy of special consideration in any planning or resources management process and include the following resources:

    a) Wetlands
    b) Aquatic Spawning, Nursery, and Feeding Grounds
    c) Coastal Primary Sand Dunes
    d) Barrier Islands
    e) Significant Wildlife Habitat Areas
    f) Public Recreation Areas
    g) Sand and Gravel Resources
    h) Underwater Historic Sites.

- *Coastal Natural Hazard Areas*. This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm-related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are as follows:

    i) Highly Erodible Areas
    ii) Coastal High Hazard Areas, including flood plains.

- *Waterfront Development Areas.* These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are as follows:

    i) Commercial Ports
    ii) Commercial Fishing Piers
    iii) Community Waterfronts

Although the management of such areas is the responsibility of local government and some regional authorities, designation of these areas as Waterfront Development Areas of Particular Concern under the Virginia Coastal Resources Management Program is encouraged.

Designation will allow the use of federal Coastal Zone Management Act funds to be used to assist in planning for such areas and in the implementation of such plans. The Virginia Coastal Resources Management Program recognizes two broad classes of priority uses for waterfront development Areas of Particular Concern:

> i) water access-dependent activities;
> ii) activities significantly enhanced by the waterfront location and complementary to other existing and/or planned activities in a given waterfront area.

Advisory Policies for Shorefront Access Planning and Protection

- *Virginia Public Beaches.* Approximately 25 miles of public beaches are located in the cities, counties, and towns of Virginia exclusive of public beaches on state and federal land. These public shoreline areas will be maintained to allow public access to recreational resources.

- *Virginia Outdoors Plan.* Planning for coastal access is provided by the Department of Conservation and Recreation in cooperation with other state and local government agencies. The Virginia Outdoors Plan, which is published by the Department, identifies recreational facilities in the Commonwealth that provide recreational access. The Virginia Outdoors Plan also serves to identify future needs of the Commonwealth in relation to the provision of recreational opportunities and shoreline access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the Virginia Outdoors Plan.

- *Parks, Natural Areas, and Wildlife Management Areas.* Parks, Wildlife Management Areas, and Natural Areas are provided for the recreational pleasure of the citizens of the Commonwealth and the nation by local, state, and federal agencies. The recreational values of these areas should be protected and maintained.

- *Waterfront Recreational Land Acquisition.* It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features which may be acquired, preserved, and maintained for the citizens of the Commonwealth.

- *Waterfront Recreational Facilities.* This policy applies to the provision of boat ramps, public landings, and bridges which provide water access to the citizens of the Commonwealth. These facilities shall be designed, constructed, and maintained to provide points of water access when and where practicable.

- *Waterfront Historic Properties.* The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic shorefront properties is primarily the responsibility of the Department of Historic Resources. Buildings, structures, and sites of

historical, architectural, and/or archaeological interest are significant resources for the citizens of the Commonwealth. It is the policy of the Commonwealth and the Virginia Coastal Zone Management Program to enhance the protection of buildings, structures, and sites of historical, architectural, and archaeological significance from damage or destruction when practicable.

APPENDIX 9

Local Environmental Review for Highway Projects

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. PB
The Honorable Pierce R. Homer PH

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.

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 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.

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

APPENDIX 10

List of Databases

List of Databases

- DEQ Online Database: Virginia Environmental Geographic Information Systems

  Information on Permitted Solid Waste Management Facilities, Impaired Waters, Petroleum Releases, Registered Petroleum Facilities, Permitted Discharge (Virginia Pollution Discharge Elimination System Permits) Facilities, Resource Conservation and Recovery Act (RCRA) Sites, Water Monitoring Stations, National Wetlands Inventory

  - www.deq.virginia.gov/ConnectWithDEQ/VEGIS.aspx

- DEQ Virginia Coastal Geospatial and Educational Mapping System (GEMS)

  Virginia's coastal resource data and maps; coastal laws and policies; facts on coastal resource values; and direct links to collaborating agencies responsible for current data

  - http://128.172.160.131/gems2/

- DEQ Permit Expert

  Helps determine if a DEQ permit is necessary

  - www.deq.virginia.gov/permitexpert/

- DHR Data Sharing System

  Survey records in the DHR inventory

  - www.dhr.virginia.gov/archives/data_sharing_sys.htm

- DCR Natural Heritage Search

  Produces lists of resources that occur in specific counties, watersheds or physiographic regions

  - www.dcr.virginia.gov/natural_heritage/dbsearchtool.shtml

- DGIF Fish and Wildlife Information Service

  Information about Virginia's Wildlife resources

  - http://vafwis.org/fwis/

- Environmental Protection Agency (EPA) Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) Database: Superfund Information Systems

  Information on hazardous waste sites, potentially hazardous waste sites and remedial activities across the nation, including sites that are on the National Priorities List (NPL) or being considered for the NPL

  - www.epa.gov/superfund/sites/cursites/index.htm

- EPA RCRAInfo Search

  Information on hazardous waste facilities

  - www.epa.gov/enviro/facts/rcrainfo/search.html

- EPA Envirofacts Database

  EPA Environmental Information, including EPA-Regulated Facilities and Toxics Release Inventory Reports

  - www.epa.gov/enviro/index.html

- EPA NEPAssist Database

  Facilitates the environmental review process and project planning

  - http://nepassisttool.epa.gov/nepassist/entry.aspx