

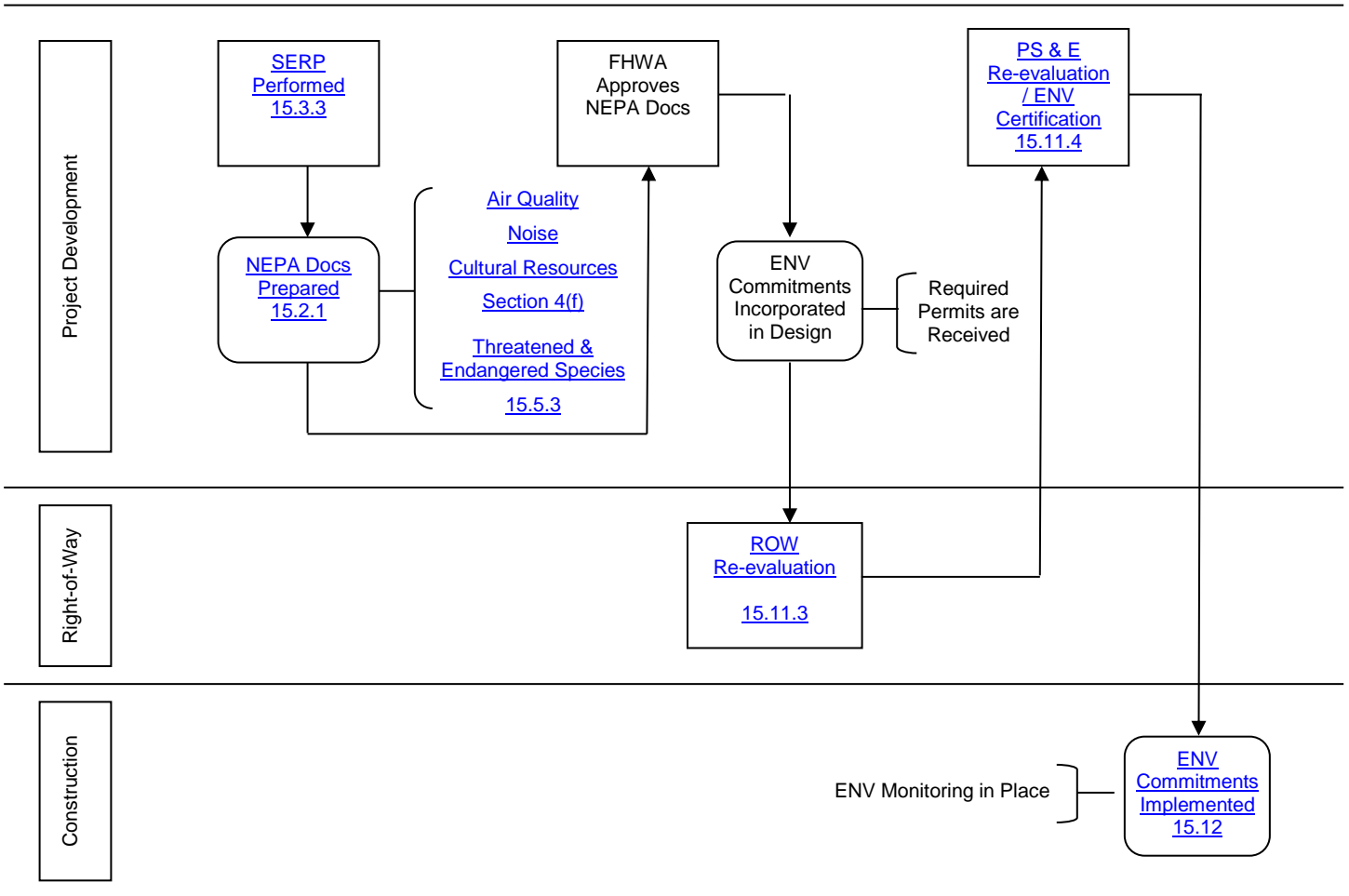
PART 3
Standards and
practices for LAP

Chapter 15
Environmental
Requirements

Locally Administered Projects (LAP) Manual

Updated February 2018

CHAPTER 15 ENVIRONMENTAL FLOW CHART



Note: This Flowchart is currently being updated. An earlier version is displayed here for reference only until the new Flowchart is available.

CHAPTER 15

ENVIRONMENTAL REQUIREMENTS

- 15.1 [GENERAL ENVIRONMENTAL PROCEDURES](#)
- 15.2 [NATIONAL ENVIRONMENTAL POLICY ACT \(NEPA\) COMPLIANCE](#)
- 15.3 [STATE ENVIRONMENTAL REVIEW PROCESS \(SERP\)](#)
- 15.4 [CULTURAL RESOURCES](#)
- 15.5 [SECTION 4\(F\) EVALUATIONS](#)
- 15.6 [NOISE STUDIES AND ABATEMENT](#)
- 15.7 [AIR QUALITY](#)
- 15.8 [WATER QUALITY PERMITS](#)
- 15.9 [THREATENED AND ENDANGERED SPECIES](#)
- 15.10 [HAZARDOUS MATERIALS](#)
- 15.11 [ENVIRONMENTAL RE-EVALUATIONS & CERTIFICATION](#)
- 15.12 [ENVIRONMENTAL MONITORING DURING CONSTRUCTION](#)

[Chapter 15 - Environmental Checklist](#)

15.1 – GENERAL ENVIRONMENTAL PROCEDURES

15.1.1 [Introduction](#)

15.1.2 [Summary of Requirements/Submittals Table](#)

APPENDICES

A – [Tasks/Submittals/Responsibilities Table](#)

B – [Environmental Legislative, Regulatory, and Executive Orders References](#)

15.1 GENERAL ENVIRONMENTAL PROCEDURES

15.1.1 Introduction

Compliance with state and federal environmental laws, regulations, and executive orders is essential for the successful development and delivery of any transportation project. The project scope, funding, and potential environmental impacts will determine the specific laws, regulations, and executive orders that must be addressed during design and construction. In the sections that follow, some of the most common environmental requirements are discussed in detail; however, the LPA must be advised that this chapter is by no means comprehensive.

Examples of other Environmental areas/issues applicable to Federal-aid projects not covered in this chapter which the LPA needs to be aware of include, but are not limited to:

- **Environmental Justice (Chapter 17.2.3)**
- **Section 6(f) – Land and Water Conservation Act**
- **Agricultural/Forrestal Districts**
- **Open Space Easements**
- **Prime Farmland**
- **Invasive Species**
- **Residential and Commercial Relocations (Chapter 16.6.3)**
- **Cumulative and Indirect Impacts**

Moreover, while most of the environmental requirements discussed in this chapter are for federal-aid projects, there are environmental requirements for state-funded projects as well, very few of which are touched on here. For these reasons, it is extremely important the LPA contact [VDOT District Environmental Managers](#) and their technical staff for guidance very early in the project development process.

In order to initiate project review, the LPA must submit information about their project and its location, preferably on the VDOT's Project Early Notification Form (EQ-429), to the VDOT Project Coordinator for conveyance to the District Environmental Manager (or designee). Project information should include all possible project features, such as

sidewalks, storm water management basins, and noise barrier walls, even if the decision has not yet been made to include them in the project. The more detailed and comprehensive information the LPA provides, the better the environmental resource information, feedback, and guidance they will receive from the District Environmental Manager (or designee).

In order to ensure that VDOT and the LPA are clear regarding environmental expectations, VDOT strongly recommends that an environmental kick-off meeting be held. This may be as simple as a telephone conversation with the VDOT Project Coordinator and Environmental Staff or it may occur within a formal scoping meeting.

At the kick-off meeting, the VDOT District Environmental Manager (or designee) will provide the LPA with a completed copy of the [Environmental Scoping Recommendations form](#), as well as other documentation relevant to the project. The LPA should use the information on this form to determine the environmental requirements for their project and whether or not assistance from a consultant is needed.

In accordance with [Chapter 11](#), Consultant Services, of this manual, VDOT can assist the LPA by reviewing the scopes of consultant services or determining the appropriateness of their proposals for environmental work.

15.1.2 Summary of Requirements/Submittals Table

[Appendix 15.1-A](#) provides a summary of the necessary environmental tasks, submittals, and file documentation that must be completed for a typical federal-aid project. The summary also includes references to submittal timing, recordkeeping requirements, and review times, as well as LPA and VDOT responsibilities associated with each item. While Appendix A 15.1-A provides a summary list of mandatory tasks, submittals, and file documentation, it does **not** provide details of all of the activities that must take place prior to- or after each identified submittal or task. The LPA is encouraged to contact the District Environmental Manager (or designee) for more information on these activities.

APPENDIX 15.1 – A
Summary Table of Primary Tasks/Responsibilities

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
EQ-429 – Project Early Notification form	Submit a completed EQ-429 with project location map	Enter into CEDAR	EQ-429 submitted by LPA to VDOT prior to project scoping or at Scoping Meeting
State Environmental Review Process/PEI Exemption / / Preliminary Environmental Inventory (PEI) project value >\$500,000 (only applicable on state-funded projects)	N/A	PEI exemption notification to LPA; or complete State Agency Coordination; provide PEI to LPA	VDOT PEI to LPA within– 60 calendar days
NEPA Concurrence Form	Submit completed form to VDOT (<u>not</u> required for PCE)	Coordinate with FHWA; convey level of NEPA document to LPA; enter into CEDAR	LPA submits to VDOT prior to beginning NEPA document; VDOT submits form to FHWA for review/concurrence within 5 days of receipt
NEPA – PCE/CE	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA; provide approved document back to LPA; enter into CEDAR.	LPA will submit draft PCE/CE 60 days prior to Public Hearing; VDOT will review and notify the LPA within: PCE - 5 days CE - 10 days
NEPA – EA. Purpose and Need Chapter; Alternatives Chapter; complete EA	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA for approval of EA; FHWA issues FONSI; enter into CEDAR	LPA must submit EA to VDOT 60 days prior to public release and should be available 30 days prior to Public Hearing. VDOT review - 15 days for each

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
			individual section (this does not include FHWA review time)
Section 106 Process (Cultural Resources)	Conduct technical studies; coordinate eligibility and effect with VDHR, submit technical reports as necessary; submit documentation to VDOT. Coordinate with VDHR and VDOT on MOA.	Enter into CEDAR	Effect determination concurrence (or MOA) submitted by LPA to VDOT prior to/or concurrent with submittal of NEPA documentation.
Noise analysis	Submit draft and final reports to VDOT. Update draft to address the comments provided by VDOT's Noise Abatement Engineer.	Determine if Type I; review/comment on Report; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
Air Quality Studies	Submit draft and final reports to VDOT	Review /comment on Report; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
EQ-121 (Hazardous Materials Due Diligence form)	Complete necessary studies and submit copies, and completed/signed form to VDOT.	Provide EQ-121 at kick off/scoping meeting. Enter EQ-121 into CEDAR	LPA submits to VDOT completed EQ-121 form prior to the NEPA Decision.
Natural Resources (EQ-555 Water Quality Permits and Natural Resource Due Diligence Certification/Checklist for locally administered projects)	Coordinate with VDOT and regulatory agencies to determine if permits /T&E clearances are necessary	Provide EQ-555 at kick-off/scoping meeting. Enter EQ-121 into CEDAR	Locality submits to VDOT EQ-555 with regulatory agency correspondence and copies of any permits/T&E clearances prior to VDOT's completion of Environmental Certification/PS&E Re-evaluations

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
Environmental Certification and Re-evaluation at R/W Authorization and Construction Advertisement	Notify VDOT PC ready for authorization at R/W and/or construction advertisement	R/W Re-evaluation form (EQ-201)/PS&E Re-evaluation form (EQ-200)/Environmental Certification form (EQ-103) completed by VDOT; provide to LPA; enter into CEDAR	VDOT completes Re-evaluations and Certification within 15 business days of the receipt of the PM-130 form and necessary environmental documentation.

APPENDIX 15.1 - B

Environmental Legislative, Regulatory, and Executive Orders References

National Environmental Policy Act (NEPA)

- National Environmental Policy Act, 42 U.S.C. 4332(2)(C) PL 91-910
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU) PL 109-59
- Moving Ahead for Progress in the 21st Century (**MAP-21**) - Transforming the Way We Build, Maintain, and Manage Our Nation's Highways P.L. 112-141
- Fixing America's Surface Transportation (FAST) Act PL 114-94
- Clean Air Act, as amended, 42 U.S.C. 1857 PL 95-95
- Federal Aid Highway Act of 1970 23 U.S.C. 109 (h)(i)(j)
- Federal Highway Administration's Noise Regulations, 23 CFR Part 772
- Transportation Conformity Regulations, 40 CFR Parts 51 and 93
- National Historic Preservation Act (16 U.S.C. 470f)
- Section 4(f) 23 CFR 774
- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Farmland Protection Policy Act, 1981, 7 C.F.R. 658
- Section 6(f) of the Land and Water Conservation Fund Act (Section 6(f)) 16 U.S.C. 4601-8(f)
- Transportation Alternatives Activities, 23 U.S.C. 101(a)(35); 23 U.S.C. 133(b)
- Federal Highway Administration Regulations Governing the Preparation of Environmental Documents, 23 C.F.R. 771
- Regulations for Implementing the Procedural Provision of the National Environmental Policy Act, 1978, 40 C.F.R. 1500-1508
- National Recreational Trails Program, 23 U.S.C. 206
- National Scenic Byways Program, 23 U.S.C. 162
- Procedures for Abatement of Highway Traffic Noise, Federal Aid Program Guide, 23 C.F.R. 772
- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f; 36 C.F.R. Part 800; 36 C.F.R. Part 60; 36 C.F.R. Part 63

- Section 110 of the National Historic Preservation Act, 16 U.S.C. 470h-2; 36 C.F.R. 78
- Archaeological Resources Protection Act, 16 U.S.C. 470 aa-mm; 32 C.F.R. 229; 36 C.F.R. 79; 36 C.F.R. 296; 43 C.F.R. 7
- Wilderness Act, 36 C.F.R. 293; 43 C.F.R., 8560; 50 C.F.R. 35
- Wild and Scenic Rivers Act, 36 C.F.R. 297
- Uniform Relocation Assistance and Real Property Acquisition Act of 1970, 49 C.F.R. 24
- Title VI of the Civil Rights Act of 1964, 49 C.F.R. 21; 23 C.F.R. 200
- Resource Conservation and Recovery Act of 1976 (RCRA), 40 CFR §260 et seq.
- Hazardous and Solid Waste Amendments (HSWA) of 1984
- Emergency Planning and Community Right to Know Act (EPCRA) 40 CFR Part 355
- Comprehensive Environmental Response Compensation and Liability Act, 40 CFR §300 et seq. and 29 CFR §1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR §300 et seq.
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C §651-678
- Federal Water Pollution Control Act, Public Law 101-508 §1388 et. seq.
- Safe Drinking Water Act of 1974, 40 CFR §104 et seq.
- Clean Air Act, 40 CFR §§60 and 763 et seq.
- Toxic Substances Control Act (TSCA) 40 CFR §761
- Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), 86 Sta. §973 et seq.
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C 401 et seq.
- Coastal Zone Management Act (1972), 16 U.S.C
- Tennessee Valley Act of 1933

- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Executive Order 13112: Invasive Species
- Executive Order 11988: Floodplain Management, as amended by Executive Order 12148
- Executive Order 12898: Federal Actions to Address Environmental Justice in Low Income Populations and Minority Populations, as amended by Executive Order 12948
- Executive Order 11990: Protection of Wetlands
- Executive Order 11514: Protection and Transportation Alternatives of Environmental Quality
- Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights
- Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency
- Executive Order 13186: Responsibilities of Federal Agencies to Protect Migratory Birds
- Executive Order 13195: Trails for America in the 21st Century
- Executive Order 13352: Facilitation of Cooperative Conservation
- Executive Order 13392: Improving Agency Disclosure of Information
- Executive Order 13406: Protection the Property Rights of the American People

State Environmental Review Process

- Code of Virginia Section 10.1-1188 (B)

Cultural Resources

- Section 106 of the National Historic Preservation Act, 16 U.S.C 470f
- Protection of Historic Properties, 36 CFR Part 800
- National Environmental Policy Act, 42 U.S.C 4321-4347
- Environmental Impact Reports of State Agencies, Code of Virginia 10.1-1188-1192

Section 4(f)

- 23 CFR 774
- Title 49 U.S.C. Section 303
- Title 23 U.S.C. Section 138

Noise Studies and Abatement

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Noise Control Act of 1972, 42 U.S.C Chapter 65 Section 4901 et seq.
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Federal Highway Administration's Noise Regulations, 23 CFR 772
- Section 33.1-12 of the Code of Virginia.
- State Noise Abatement Policy

Air Quality

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Clean Air Act, as amended, 42 U.S.C 1857 PL 95
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Energy Policy Act, 42 U.S.C 15801
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Transportation Conformity Regulations, 40 CFR Parts 51 (Implementation), 81 (Designations), and 93 (Transportation Conformity)
- Statewide Transportation Planning Regulations, 23 CFR Part 450
- Interim Guidance on Air Toxic Analysis in NEPA Documents – FHWA Guidance Memorandum – February 3, 2006
- Memorandum of Agreement with FHWA Regarding Streamlining Project Level Carbon Monoxide Air Quality Studies, 2009
- Virginia Air Pollution Control Law
- State Regulation for Transportation Conformity, 9 VAC 5 Chapter 151

Water Quality Permits

- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Endangered Species Act, 16 U.S.C 1531-1544
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418
- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

Threatened and Endangered Species

- Endangered Species Act, 16 U.S.C 1531-1544
- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)
- Migratory Bird Treaty Act 16 U.S.C Sections 703-712
- Bald and Golden Eagle Protection Act RIN 1018-AV11
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418
- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

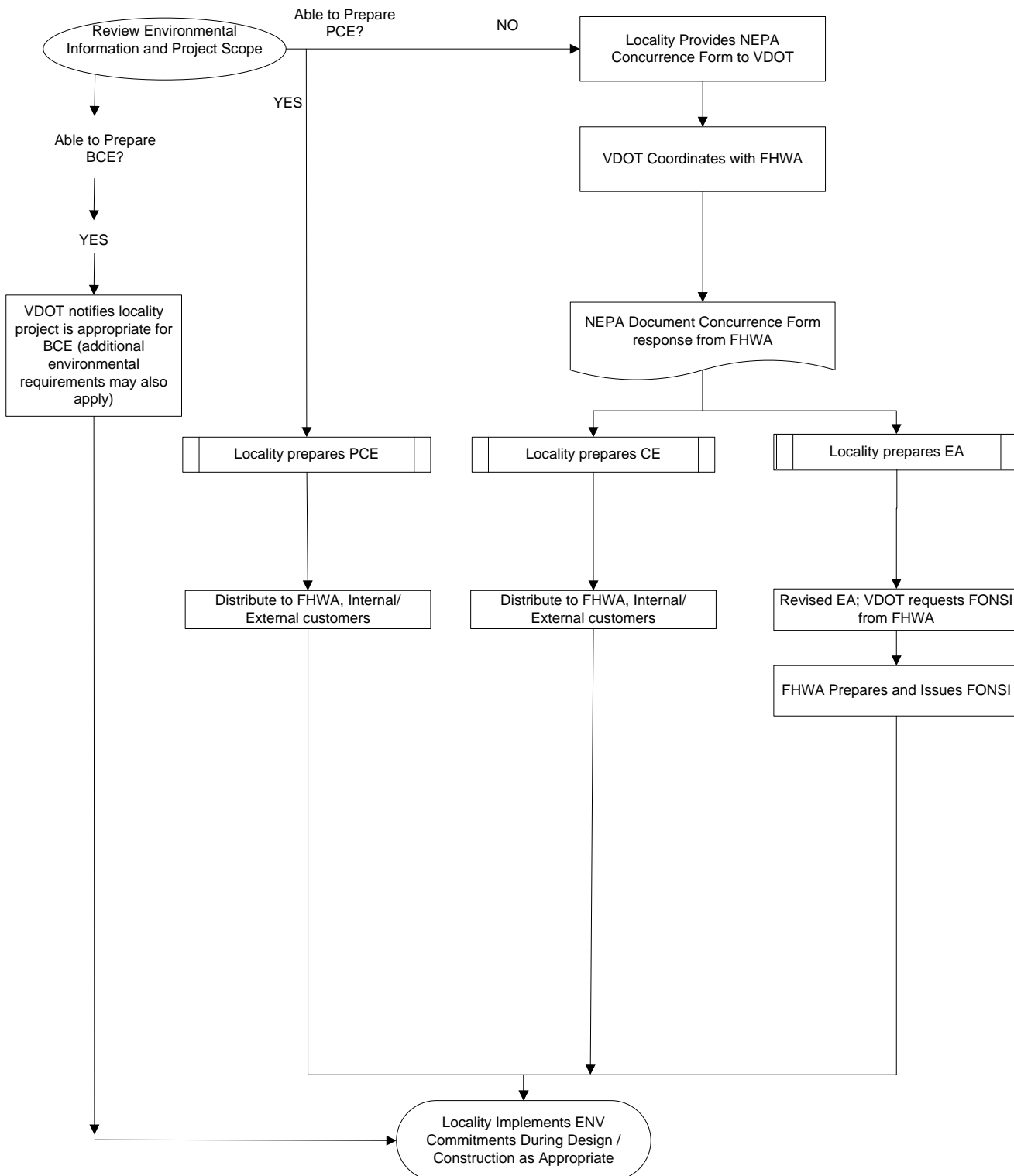
Hazardous Materials

- Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C 6901-6991k
- Hazardous and Solid Waste Amendments (HSWA) of 1984
- Emergency Planning and Community Right to Know Act (EPCRA), 40 CFR 355
- Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 40 CFR 300 et seq. and 29 CFR 1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR 171-180
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C 651-678
- Federal Water Pollution Control Act, PL 101-508, 1388 et seq.
- Clean Water Act of 1977 and Safe Drinking Water Act of 1974, 40 CFR 104 et seq.
- Clean Air Act, 42 U.S.C 7401-7671q
- Toxic Substances Control Act (TSCA), 40 CFR 761
- Virginia Hazardous Waste Management Regulation, 9 VAC 25-31-10 et seq. and 9 VAC 25-260 et seq.
- Virginia Solid Waste Management Regulations, 9 VAC 20-80 et seq.
- Virginia Water Control Board Regulations, 9 VAC 25-91-10 et seq. and 25-280-10 et seq.
- National Environmental Policy Act of 1969, 42 U.S.C 4321-4347
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C 136 et seq.

15.2- NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

- 15.2.1 [Introduction](#)
- 15.2.2 [Applicability](#)
- 15.2.3 [NEPA Concurrence](#)
- 15.2.4 [Categorical Exclusions](#)
 - 15.2.4.1 [Programmatic Categorical Exclusions \(PCE\)](#)
 - 15.2.4.2 [Categorical Exclusions \(CE\)](#)
 - 15.2.4.3 [Submitting the PCE/CE](#)
- 15.2.5 [Environmental Assessments \(EA\)](#)
- 15.2.6 [Documentation](#)
- 15.2.7 [References](#)

15.2 NATIONAL ENVIRONMENTAL POLICY ACT



Note: This Flowchart is currently being updated. An earlier version is displayed here for reference only until the new Flowchart is available.

15.2.1 Introduction

This section provides a general overview of the National Environmental Policy Act ([NEPA](#)) and the process an LPA must follow to ensure successful completion of the NEPA process. By regulation, FHWA retains NEPA approval authority on federally-funded projects, requiring that VDOT oversee compliance with NEPA on its behalf, even if a project is administered by a local government. So, while the LPA is responsible for performing all necessary environmental investigations and for preparing all necessary documentation demonstrating their project's compliance with NEPA, the FHWA provides all approvals for the NEPA action. As such, close coordination among the LPA, the VDOT Project Coordinator, and the VDOT District Environmental Section is extremely important during the NEPA process to ensure that FHWA's approval is obtained and project delays are avoided.

Transportation projects differ in type, size, complexity, and potential to impact the environment. Transportation project impacts on the natural and human environment can vary from very minor to significant. To account for the variability of project impact, three basic "classes of action" are allowed and determine how compliance with NEPA is carried out and documented:

- [Categorical Exclusions \(CEs\)](#) are issued for actions that do not individually or cumulatively have a significant effect on the environment. Typically, CEs can be concluded within six to nine months' time. There are also project categories that may be addressed as Programmatic Categorical Exclusions (PCEs). Typically, PCEs can be concluded in three months or less. Most LPA administered projects qualify as PCEs.
- An [Environmental Assessment \(EA\)](#) is prepared for actions in which the significance of the environmental impact is not clearly established. EAs are also often required for other projects including those consisting of four lanes on new location and those for which a federal land management agency (e.g. National Park Service) must convey property. Should environmental analysis and interagency review during the EA process conclude that a project has no significant impact on the quality of the

environment; a Finding of No Significant Impact (FONSI) is issued. EA/FONSIs can be concluded typically within 18 months.

- An [Environmental Impact Statement \(EIS\)](#) is prepared for projects where it is known that the action will have a significant effect on the environment. EIS documents routinely take several years to complete.

The sections that follow focus on the requirements for PCEs, CEs, and EAs. EISs are not discussed here as they require the development of a separate Memorandum of Agreement outlining specific actions and requirements of both VDOT and the LPA.

15.2.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.

Note: Projects which are non-federal-aid or developed to qualify for federal-aid but involve another federal action (such as a federal permit or use of federal property) require compliance with NEPA; however, VDOT does not provide oversight or have approval authority for actions required by other federal agencies (e.g. USACE).

Transportation Enhancement/Alternatives Projects

In 2008, the Department instituted a policy wherein VDOT District Environmental staff would prepare the NEPA environmental document, as described below, for TAP projects initiated in 2008 and later. This means that for any “new” project awarded federal Transportation Enhancement / Alternatives funds for the first time in June 2008 or later, VDOT will provide the basic coordination and required NEPA document. Note that this is considered part of VDOT’s oversight and as such, is an eligible project charge.

For these projects, the Department is only performing the basic coordination and preparing the required NEPA document. There may be cases requiring the sponsor to provide some additional coordination or investigation in order to obtain the necessary final environmental clearances and required permits. For example, the sponsor may be

directed to conduct additional environmental studies by the regulatory agencies such as limited archaeological surveys or wetland findings / delineations. The sponsor is responsible for completing this work (above the basic coordination) or for obtaining qualified professionals to perform the work.

Where VDOT prepares the environmental document, the sponsor is still responsible for obtaining any required permits and for complying with, and / or enforcing any environmental commitments identified in the NEPA document.



NEPA does not apply to state-funded projects. For information on requirements for state-funded projects please see [Section 15.3](#).

15.2.3 NEPA Concurrence



Prior to the initiation of environmental studies, the LPA must submit a NEPA Concurrence Form to the VDOT Project Coordinator. It is recommended that the LPA discuss the NEPA class of action with the VDOT District Environmental Manager (or designee) when completing this form.



It is important to remember that only CEs and EAs require preparation of a NEPA Concurrence Form; PCEs do not.

Per agreement with FHWA, VDOT requires the use of a standardized [NEPA Concurrence Form](#).

Please contact your respective VDOT District Environmental Section for guidance as to how to complete the NEPA Concurrence Form.

VDOT Responsibilities:

- *After receiving the NEPA Concurrence Form, the VDOT Project Coordinator will forward it to the District Environmental Manager (or designee) for review.*

- *Assuming the form is complete, the VDOT District Environmental Manager (or designee) will request FHWA's concurrence within five (5) business days of receipt. The District Environmental Manager (or designee) will provide FHWA's concurrence to the VDOT Project Coordinator for conveyance to the LPA.*
- *If the form is incomplete, the District Environmental Manager (or designee) will notify the VDOT Project Coordinator, who will request additional information from the LPA and facilitate further consultations, if necessary.*
- *The District Environmental Manager (or designee) will upload the approved NEPA Concurrence Form into CEDAR.*

15.2.4 Categorical Exclusions

15.2.4.1 Programmatic Categorical Exclusions (PCE)

There are a variety of project types which may qualify for the preparation of a Programmatic Categorical Exclusion. Attachments A and B of the [2017 VDOT-FHWA Programmatic Agreement Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects](#) lists the PCE project categories; and Attachment C lists the PCE Documentation Qualifying Thresholds for use of the PCE. While it is recommended that the LPA familiarize themselves with the project categories and qualifying conditions in the agreement, ultimately, the VDOT is responsible to FHWA for that determination per the agreement. The LPA should contact their respective VDOT District Environmental Manager (or designee) to discuss whether or not their project qualifies for a PCE, and if so, under what category. It is, however, the LPA's responsibility to ensure—through research, investigation, and coordination with various regulatory agencies—that the project **does not** meet any of the conditions listed in Attachment C of the 2017 Programmatic Agreement.

Moreover, the criteria outlined on the standardized PCE form must be supported by the LPA with appropriate documentation.



Per agreement with FHWA, VDOT requires the use of a standardized [PCE](#) form.

Please contact your respective VDOT District Environmental Section for guidance as to how to complete the PCE Form

15.2.4.2 Categorical Exclusions (CE)

According to the 2017 Agreement, if any of the conditions listed in Appendix C: *VDOT CE Determination Qualifying Thresholds* are true, then the project does not qualify for a PCE, and a CE must be prepared.



Per agreement with FHWA, VDOT requires the use of a standardized [CE](#) form.

Please contact your respective VDOT District Environmental Section for guidance as to how to complete the CE Form.

15.2.4.3 Submitting the PCE/CE



The LPA must submit a draft PCE or CE, along with the supporting documentation, to the VDOT Project Coordinator for environmental quality assurance review by the District Environmental Manager (or designee).



VDOT concurrence with the completed PCE or CE and supporting documentation must be received prior to announcement of a public hearing, or posting of a willingness to hold a public hearing, and prior to Right-of-Way Authorization.

VDOT will require a minimum of five (5) business days for a quality assurance review of a PCE. CEs require additional review time. Once the CE is submitted to FHWA, they

have seven (7) calendar days to raise any objections or request any changes to the CE. If FHWA does not have any concerns, they will provide a Documentation of FHWA Review to the District Environmental Manager who will convey it to the LPA via the VDOT Project Coordinator, and upload it into CEDAR.

The LPA will address any comments received, and will submit a final PCE or CE, preferably an electronic copy, to the VDOT Project Coordinator.

VDOT Responsibilities:

- *During PCE/CE development, the VDOT Project Coordinator and the District Environmental Manager (or designee) may provide support to the LPA as requested, to ensure that a quality PCE/CE will be submitted to FHWA.*
- *The VDOT Project Coordinator will forward the completed PCE/CE to the VDOT District Environmental Manager for an environmental quality assurance review.*
- *Typically for a PCE, the District Environmental Manager (or designee) will provide a concurrence, or make a request for additional information, within five (5) business days of receipt. This includes a three-day environmental quality assurance review by the District Environmental Manager (or designee) and an additional two-day environmental quality control review by VDOT Central Office Environmental Division.*
- *Typically for a CE, the District Environmental Manager (or designee) will provide a concurrence, or make a request for additional information, within 10 business days of receipt. This includes a three-day environmental quality assurance review by the District Environmental Manager and an additional three-day environmental quality control review by VDOT Central Office Environmental Division. When additional review time or consultation with the LPA is necessary,*

the District Environmental Manager (or designee) will promptly notify the VDOT Project Coordinator and the LPA.

- *The District Environmental Manager (or designee) will provide the VDOT Project Coordinator with FHWA's approval (i.e. the Documentation of FHWA Review form) of the CE for conveyance to the LPA.*
- *The District Environmental Manager (or designee) will upload the NEPA document and all supporting materials, including FHWA's approval, into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all environmental commitments into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*

15.2.5 Environmental Assessments (EA)

Because of the complexity involved with the preparation of an EA, it is very important that the LPA coordinate closely with their respective VDOT District Environmental Manager (or designee) throughout its development.



To ensure concurrence with the Purpose & Need (P/N) and the Alternatives Analysis sections of the documents, FHWA per agreement, requires these portions of the EA be submitted for review as they are completed. This early review by VDOT and FHWA will expedite the overall approval process for the EA.

For additional guidance on the development of an EA, click [here](#).

Per agreement with FHWA, VDOT requires the use of a [standardized outline](#) and guidance for EAs. The District Environmental Manager (or designee) can provide examples of Environmental Assessments for assistance with content and formatting. The LPA should note that VDOT allows no consultant logos in NEPA documentation.



The LPA must submit the EA which has addressed any comments on the P/N and Alternative Analysis sections, along with supporting documentation, to the VDOT Project Coordinator. Supporting documentation for the EA may include technical reports for cultural resources studies, natural resources studies, air quality and noise analyses, hazardous materials investigations, and agency coordination letters. Technical reports in support of the EA should be submitted to the VDOT Project Coordinator when they are completed (i.e. final drafts) for environmental quality assurance and control [reviews](#) by VDOT Environmental Staff.



Additional information about the public involvement process can be found in [VDOT's Public Involvement Manual](#).

EAs require a minimum of 10 business days for an environmental quality assurance and control reviews; five (5) business days for the District Environmental Manager and five (5) business days for VDOT's Environmental Division in Central Office. Complex and more detailed EAs may require additional review time. Once VDOT submits the EA to FHWA, they have 21 calendar days to raise any objections or request any changes to the EA. If FHWA does not have any concerns, they will provide an electronic copy of a signed cover sheet for public availability to the District Environmental Manager (or designee) for conveyance to the LPA via the VDOT Project Coordinator.

The LPA will address comments provided, if necessary, and will submit the updated EA, including an electronic copy, to the VDOT Project Coordinator.

After the public hearing, the LPA will prepare a letter addressing revisions to the EA as a result of public comment, design changes or additions, etc. and provide it and a request for a Finding of No Significant Impact (FONSI) to the VDOT Project Coordinator for the final submission to FHWA. FHWA has 14 calendar days to raise any objections or request additional changes to the Revised EA. If they do not have any concerns, FHWA will provide a FONSI to the VDOT. Once FHWA's FONSI has been received,

the District Environmental Manager (or designee) will forward an electronic copy to the VDOT Project Coordinator for conveyance to the LPA.

VDOT Responsibilities:

- *During the development of the EA, the VDOT Project Coordinator and the District Environmental Manager (or designee) may provide support to the LPA as requested, to ensure that a quality EA will be submitted to FHWA.*
- *The VDOT Project Coordinator will forward the completed draft P/N section, Alternatives Analysis section, and EA to the District Environmental Manager (or designee) for environmental quality assurance and control reviews.*
- *For most reviews, the District Environmental Manager (or designee) will provide a concurrence or comments/request for additional information within 10 business days of receipt. When additional review time or consultation with the LPA is necessary, the District Environmental Manager (or designee) will promptly notify the VDOT Project Coordinator and LPA.*
- *The District Environmental Manager (or designee) will provide the VDOT Project Coordinator with FHWA's FONSI for conveyance to the LPA.*
- *The District Environmental Manager (or designee) will upload the EA and all supporting materials, and especially the FONSI, into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all environmental commitments into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*

15.2.6 Documentation

The creation and preservation of an administrative record, consisting of documents, studies, correspondence, and project materials that support the NEPA decision-making process, is an equally important aspect of compliance. The LPA will provide VDOT with copies of all documentation that supports and/or demonstrates their project's compliance with applicable laws, regulations, and executive orders. A complete and comprehensive administrative record is essential for the project file, as well as to provide evidentiary support for audits and litigation. The American Association of State Highway and Transportation Officials (AASHTO) has published [*Maintaining a Project File and Preparing an Administrative Record for a NEPA Study*](#) which provides an excellent discussion on maintaining and preparing an administrative record for environmental compliance.

15.2.7 References

- [NEPA Concurrence Form](#)
- [PCE Form](#)
- [CE Form](#)

15.3- STATE ENVIRONMENTAL REVIEW PROCESS (SERP)

15.3.1 [Introduction](#)

15.3.2 [Applicability](#)

15.3.3 [SERP Coordination Process](#)

15.3.4 [References](#)

15.3 STATE ENVIRONMENTAL REVIEW PROCESS (SERP)

15.3.1 Introduction

The Code of Virginia (§ 10.1-1188.) directs the Secretaries of Natural Resource and Transportation to establish procedures for review and comment on highway construction projects. The Memorandum of Agreement (MOA) between these Secretariats implemented a streamlined process for accomplishing this, known as the State Environmental Review Process (SERP).

The SERP affords Virginia state natural and historic resource agencies an opportunity to comment on a transportation construction project in its early stages of development. During SERP, these agencies provide information relative to the environmental resources they oversee, and offer comments to be considered as the project moves forward. The information and comments received from these agencies during SERP are compiled into a Preliminary Environmental Inventory (PEI) by the District Environmental Manager (or designee) for conveyance to the LPA via the VDOT Project Coordinator. Although the PEI contains important environmental information that can be used by the LPA in project planning and development, it is preliminary and does not encompass all of the environmental resources that could be affected by a project or all of the environmental requirements that will need to be met prior to constructing it.



The PEI is solely a preliminary environmental inventory, and does not take the place of direct coordination with state/federal regulatory agencies.

15.3.2 Applicability

- SERP only applies to state-funded construction projects estimated to cost more than \$500,000.

15.3.3 SERP Coordination Process



For projects meeting the above criteria, once the Project Administration Agreement is completed and after the preliminary project scope is determined, the LPA will submit to the VDOT Project Coordinator a [Project Early Notification Form \(EQ-429\)](#) and a topographic map depicting the project limits to the VDOT Project Coordinator. The project information contained in the form should be comprehensive, including all potential project features even if it has not yet been determined that those features will be part of the project. The VDOT Project Coordinator will upload the EQ-429 and topographic map into CEDAR.



Project information should be comprehensive, including all potential project features.

The VDOT Project Coordinator will then coordinate with the District Environmental Manager (or designee) to determine whether or not SERP applies, and if so, whether or not a Preliminary Environmental Inventory (PEI) must be prepared for the project. The VDOT Project Coordinator will notify the LPA of the District Environmental Manager's (or designee's) decision in writing within five (5) days of the receipt of the EQ-429, copying the District Environmental Manager (or designee) on this communication. If the project is exempt from the preparation of a PEI, there will be no further communication from the District Environmental Manager (or designee) regarding SERP.



Even if a project is determined to be PEI-exempt, the LPA is still required to obtain any environmental clearances necessary for compliance with state/federal regulatory requirements.

If a project requires the preparation of a PEI, the District Environmental Manager (or designee) will contact state resource agencies on the behalf of the LPA , providing them with the EQ-429 and topographic map submitted to the VDOT Project Coordinator by the LPA. After receiving initial comments from the state resource agencies, the District Environmental Manager (or designee) will consolidate them into a draft PEI and

circulate it to the state resource agencies for a final review. Assuming no additional comments are received, the District Environmental Manager (or designee) will transmit the final PEI to the VDOT Project Coordinator for conveyance to the LPA. The VDOT Project Coordinator will upload all PEI documentation into iPM, and the District Environmental Manager (or designee) will upload it into CEDAR. An example of a PEI is found [here](#).



The PEI will not include comments from federal resource agencies (such as US Fish and Wildlife Service) nor will it provide information on specific water quality permitting requirements.

SERP is typically completed in less than 60 calendar days from the receipt of the EQ-429. As per the 2001 MOA, state resource agencies have 30 calendar days to provide initial comments to the VDOT for the draft PEI, and an additional 15 calendar days to review it.

For state-funded, locally-administered projects, the District Environmental Manager's (or designee's) role is limited to the coordination of the PEI with state resource agencies, and the transmission of the final PEI to the VDOT Project Coordinator for conveyance to the LPA. The LPA is responsible for complying with all applicable environmental requirements, and evidencing their due diligence through their completion and submission of [Appendix 5-A](#) (Certification Form for State Funded Projects) to the VDOT Project Coordinator. For more information on state-funded projects, see [Chapter 5](#).

VDOT Responsibilities:

- *The VDOT Project Coordinator will enter the Project Early Notification Form (EQ-429) into CEDAR.*
- *The VDOT Project Coordinator will coordinate with the District Environmental Manager (or designee) to determine whether or not SERP applies, and if so, whether or not the project requires the preparation of a PEI.*

- *The District Environmental Manager (or designee) will provide a determination, including PEI exemption, to the VDOT Project Coordinator within 5 business days of the Project Early Notification Form (EQ-429) having been entered into CEDAR. The VDOT Project Coordinator will notify the LPA of this determination in writing, copying the District Environmental Manager (or designee).*
- *If a PEI is required, then the District Environmental Manager (or designee) will coordinate with state resource agencies and provide a completed PEI to the VDOT Project Coordinator for conveyance to the LPA.*
- *The VDOT Project Coordinator and District Environmental Manager (or designee) will upload all relevant project materials and documentation into iPM and CEDAR respectively.*

15.3.4 References

- [Project Early Notification Form \(EQ-429\)](#)
- [Preliminary Environmental Inventory \(example\)](#)

15.4- CULTURAL RESOURCES

- 15.4.1 [Introduction](#)
- 15.4.2 [Applicability](#)
- 15.4.3 [Section 106 Coordination Process](#)
- 15.4.4 [Effect Determinations](#)
- 15.4.5 [Memorandum of Agreement](#)
- 15.4.6 [Post Consultation/Construction](#)
- 15.4.7 [VDHR Permits](#)
- 15.4.8 [References](#)

15.4 CULTURAL RESOURCES

15.4.1 Introduction

A cultural resource review, performed in accordance with Section 106 of the National Historic Preservation Act (NHPA), is required for any federally-funded or federally-eligible locality-administered project. The regulations that implement Section 106 (36 CFR Part 800) provide the process steps for considering the effects of an undertaking on historic properties. This process must be conducted in consultation with the State Historic Preservation Office (SHPO; in Virginia, the Virginia Department of Historic Resources), federally recognized Indian tribes, representatives of local government, other interested parties, the general public, and in some cases, the Advisory Council on Historic Preservation (ACHP), which is the federal entity that oversees implementation of Section 106.



Historic properties are buildings, structures, objects, districts, and sites (i.e. cultural resources) that are listed in, or eligible for listing in the National Register of Historic Places (NRHP).

The major steps in the Section 106 process are:

- (1) Identification of consulting/interested parties;
- (2) Definition of the Area of Potential Effects (APE), which is the geographic area within which a project may directly or indirectly cause changes in the character or use of historic properties;
- (3) Identification of historic properties within the APE;
- (4) Assessment of project effects on historic properties;
- (5) Consideration of alternatives or modifications to project design that would avoid or minimize adverse effects; and
- (6) Resolution of any remaining adverse effects through the federal agency's execution of a Memorandum of Agreement with the SHPO and other parties.

For federal-aid transportation projects in Virginia, the Section 106 process is used to meet the requirements of the National Environmental Policy Act (NEPA) for ensuring that historic preservation is given appropriate consideration in project planning and development. The Virginia Department of Historic Resources (VDHR) maintains a [website](#) that contains valuable information regarding cultural resource coordination requirements.

15.4.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed as federally eligible. They are also applicable to state and/or locally funded projects with federal permits.
- In the event that a project is entirely state and/or locally funded with no federal permits, the LPA should consult with the District Environmental Manager (or designee) to define necessary procedures for consultation with the VDHR.

15.4.3 Section 106 Coordination Process

The District Environmental Manager (or designee) will provide information on known cultural resources within the vicinity of the project obtained from the VDHR's Virginia Cultural Resource Information System (VCRIS) to the LPA. After receiving this information, the LPA is responsible for identifying *consulting parties*; defining the APE; conducting technical studies needed to identify historic properties within the APE; assessing the project's effects on historic properties; and coordinating these findings with VDHR and *consulting parties*.

Pursuant to 36 CFR 800.2 (c), *consulting parties* include the State Historic Preservation Officer (SHPO); Indian Tribes and Native Hawaiian organizations; Representatives of local governments; Applicants for Federal assistance permits, licenses and other approvals; and certain individuals and organizations with a demonstrated interest in the undertaking.

The LPA can begin coordination with VDHR as soon as they have developed a project scope.

15.4.4 Effect Determinations



The LPA is required to provide VDOT with copies of the technical reports (one paper copy and two electronic copies (CD/DVD) in PDF format) and written correspondence between the LPA and VDHR, providing VDHR's concurrence with the LPA's findings and effect determination.

The outcome of coordination with VDHR will be one of three possible effect determinations: No Historic Properties Present or Affected; No Adverse Effect on Historic Properties (with or without conditions), or; Adverse Effect on Historic Properties. When the effect is adverse, a Memorandum of Agreement (MOA) to resolve adverse effects must be executed.



The LPA should be mindful that an Adverse Effect determination will require preparation of a CE, rather than a PCE, to comply with NEPA.

Additionally, the LPA should consider whether an historic property may also require preparation of a Section 4(f) evaluation (see 15.5).

15.4.5 Memorandum of Agreement

The LPA must notify the VDOT Project Coordinator that their project will have an Adverse Effect on historic properties. VDOT and FHWA must participate in the development and execution of the Memoranda of Agreement (MOA). The US Army Corps of Engineers (USACE) or Tennessee Valley Authority (TVA) may also participate for projects with federal permits, or may designate FHWA lead federal agency for Section 106.

15.4.6 Post Consultation/Construction

The LPA is required to implement all commitments to avoid, minimize, or mitigate effects on historic properties during design and/or construction as agreed to with VDHR as conditions of the effect determination. The LPA must provide the VDOT Project Coordinator with documentation demonstrating that all commitments have been implemented.

If any design changes occur which affect the project scope reviewed by VDHR, the LPA must re-coordinate with VDHR and provide the VDOT Project Coordinator with documentation of this coordination, especially any validated, updated, or revised effect determinations. If previously unidentified archaeological sites are encountered during project construction, the LPA must address these in accordance with Section 107.16(d) of the VDOT's *Road and Bridge Specifications* and 36 CFR 800.13.

15.4.7 VDHR Permits



In order to conduct archaeological testing or excavations within state-owned right of way, the LPA must first secure a permit from VDHR pursuant to [§10.1-2302](#) of the Code of Virginia.

Permits are issued through the VDHR's Division of State Archaeology.

VDOT Responsibilities:

- *The VDOT Environmental Manager (or designee) will provide the LPA information on known cultural resources within the vicinity of the project as obtained from the VDHR's VCRIS.*
- *The District Environmental Manager (or designee) will participate as a consulting party during the development of any MOA between the LPA and VDHR, and the Environmental Division Director will be a signatory to the MOA.*

- *Prior to the completion of the NEPA document, the District Environmental Manager (or designee) will obtain from the LPA via the VDOT Project Coordinator copies of technical reports, written correspondence between the LPA and VDHR providing VDHR's concurrence with the LPA's findings and effect determination, and the MOA (when the effect is adverse). The District Environmental Manager (or designee) will upload these documents into CEDAR and forward one paper and one pdf copy of any technical report to the Cultural Resources Program Manager in Central Office.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all cultural resources commitments into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*
- *The VDOT Project Coordinator will obtain from the LPA documentation that the LPA has completed any other cultural resources commitments and will forward this documentation to the District Environmental Manager (or designee) who will upload it into CEDAR.*

15.4.8 References

- Advisory Council on Historic Preservation [Section 106 Regulations User's Guide](#)
- Virginia Department of Historic Resources, [Division of Review and Compliance](#)
- VDHR's [Guidelines for Conducting Historic Resources Survey in Virginia](#)
- VDHR's [Virginia Cultural Resource Information System](#)

15.5- SECTION 4(F) EVALUATIONS

15.5.1 [Introduction](#)

15.5.2 [Applicability](#)

15.5.3 [Section 4\(f\) Coordination Process](#)

15.5.4 [References](#)

15.5 SECTION 4(F) EVALUATIONS

15.5.1 Introduction

[Section 4\(f\) of the Department of Transportation Act \(DOT Act\) of 1966](#) stipulates that the Federal Highway Administration (FHWA) and other DOT agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historic properties that are on or eligible for the National Register for transportation projects unless the following conditions apply:

- There is no feasible and prudent avoidance alternative to the use of land; and the action includes all possible planning to minimize harm to the property resulting from use; OR
- The FHWA determines that the use of the property will have a minor impact.

The laws and regulations governing Section 4(f) and its implementation by the FHWA include [Title 49 U.S.C. Section 303](#), [Title 23 U.S.C. Section 138](#), [Technical Correction to Final Rule on Section 4\(f\)](#), [Final Rule on Section 4\(f\)](#), and [23 CFR 774](#)

15.5.2 Applicability

- **The requirements outlined in this section apply to all federal-aid projects and projects developed to qualify for federal aid.**

15.5.3 Section 4(f) Coordination Process

Potential 4(f) resources should be identified early on in the project development process, during pre-scoping, scoping, or preliminary environmental review. The District Environmental Manager (or designee) can assist the LPA with the identification of 4(f) resources in the vicinity of their project, and will consult with FHWA for a formal determination of 4(f) applicability, and whether or not the proposed use is *de minimis*.



The LPA must consider their project's potential to impact 4(f) resources and should coordinate with VDOT District Environmental Staff early in the project development process.



If 4(f) applies and the use is *de minimis*, then the LPA will provide all documentation necessary to the VDOT Project Coordinator, who will provide it to the District Environmental Manager (or designee) for coordination of the *de minimis* impact finding with FHWA.

If the use is not *de minimis*, then the LPA will consult with the District Environmental Manager (or designee) to determine whether a Programmatic or Individual Section 4(f) Evaluation must be prepared.

[Nationwide Section 4\(f\) Programmatic Evaluations](#) can be used for projects having only minor impacts on areas protected by Section 4(f), and take less time to process than an Individual Section 4(f) Evaluation. Prior to undertaking an Individual Section 4(f) Evaluation, the LPA should consult with the District Environmental Manager (or designee) to determine whether or not a Programmatic Evaluation can be used for the project.

FHWA and VDOT have agreed to use a standardized form for Nationwide Section 4(f) Programmatic Evaluations and [Individual Section 4\(f\) Evaluation](#).

Guidance for completing the Individual Section 4(f) evaluation can be found [here](#).

VDOT Responsibilities:

- *The District Environmental Manager (or designee) can assist the LPA with the identification of 4(f) properties.*
- *The District Environmental Manager (or designee) will consult with FHWA regarding Section 4(f) applicability and as to whether or not the proposed use qualifies as de minimis. The District Environmental Manager (or designee) will notify the VDOT Project Coordinator, who will notify the LPA of FHWA's determinations.*

- *As applicable, the District Environmental Manager (or designee) will coordinate the de minimis impact finding with FHWA, and provide a written copy of it to the VDOT Project Coordinator, who will convey it to the LPA.*
- *If the use is not de minimis, then the District Environmental Manager (or designee) will advise the LPA as to whether a **Programmatic** or **Individual Section 4(f)** Evaluation should be used for the project.*
- *As applicable, the District Environmental Manager (or designee) will provide comments on the LPA's draft **Programmatic 4(f)** Evaluation to the VDOT Project Coordinator LPA in 15 business days of receipt. The VDOT Project Coordinator will convey the comments to the LPA.*
- *After receiving the LPA's final Draft **Programmatic 4(f)** Evaluation, the District Environmental Manager (or designee) will submit it to FHWA for review, comment, and approval. If FHWA does not have any concerns, they will provide an electronic copy of a signed cover sheet to the District Environmental Manager (or designee) for conveyance to the LPA via the VDOT Project Coordinator. The VDOT Project Coordinator will convey this information to the LPA.*
- *As applicable, the District Environmental Manager (or designee) will provide comments on the LPA's draft **Individual Section 4(f)** Evaluation to the VDOT Project Coordinator LPA in 15 business days of receipt. The VDOT Project Coordinator will convey the comments to the LPA.*
- *After receiving the LPA's final Draft **Individual Section 4(f)** Evaluation, the District Environmental Manager (or designee) will submit it to FHWA for the Department of the Interior (DOI) and the official with jurisdiction's review, comment, and approval. Those comments will be addressed by the LPA and then resubmitted for FHWA approval of the Draft. If they do not have any concerns,*

they will provide an electronic copy of a signed cover sheet to the District Environmental Manager (or designee) for conveyance to the LPA via the VDOT Project Coordinator. The VDOT Project Coordinator will convey this information to the LPA.

- *After receiving the LPA's draft Final **Individual Section 4(f)** Evaluation, the District Environmental Manager (or designee) will submit it to FHWA for Legal Sufficiency review. Those comments will be addressed by the LPA and then resubmitted for FHWA approval of the Final. If they do not have any concerns, they will provide an electronic copy of a signed cover sheet to the District Environmental Manager (or designee) for conveyance to the LPA via the VDOT Project Coordinator. The VDOT Project Coordinator will convey this information to the LPA.*
- *The District Environmental Manager (or designee) will upload all relevant documentation, especially FHWA's signed cover sheet, and project materials into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all avoidance and minimization efforts into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*

15.5.4 References

- [FHWA Section 4\(f\) Program Overview](#)
- [FHWA Section 4\(f\) Policy Paper](#)
- [Section 4\(f\) - Independent Bikeway or Walkway Construction Projects](#)
- [Section 4\(f\) - Use of Historic Bridges](#)
- [Section 4\(f\) - Involvements Minor with Historic Sites](#)
- [Section 4\(f\) - Involvements with Minor Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges](#)

- [Section 4\(f\) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4\(f\) Property](#)
- [Section 4\(f\) Tutorial](#)
- [Section 4\(f\) Evaluation form and Guidance](#)

15.6- NOISE STUDIES AND ABATEMENT

- 15.6.1 [Introduction](#)
- 15.6.2 [Applicability](#)
- 15.6.3 [Noise Abatement Coordination Process](#)
 - 15.6.3.1 [Project Type Determination](#)
 - 15.6.3.2 [Noise Analysis](#)
 - 15.6.3.3 [Noise Abatement Design](#)
 - [15.6.3.4 Citizen Coordination](#)
- 15.6.4 [References/Links](#)

15.6 NOISE STUDIES AND ABATEMENT

15.6.1 Introduction

Federal regulations ([23 CFR Part 772](#)) require that each State Transportation Agency determine and analyze anticipated noise impacts and alternative noise abatement measures for those impacts for specific type of highway construction projects.

In response to new technology and the industry practices, FHWA proposed changes to federal noise abatement policy and regulation. The final rule was published on July 13, 2010 with an effective date of July 13, 2011. It required each State DOT to revise its noise policy to be in accordance with this final rule. FHWA approved the [VDOT Traffic Noise Impact Analysis Guidance Manual](#) on March 15, 2011. The CTB approved the Manual on June 15, 2011. The Manual was effective on July 13, 2011, and was updated in July of 2015.

The new policy sets out statements on general applicability (FHWA resources, General Assembly mandate, and administration of the policy) as well as creates a companion document to cover details in a comprehensive manner. The companion document is titled “Highway Traffic Noise Impact Analysis Guidance Manual”. The VDOT noise policy, guidance manual, and other resources are located at:

<http://www.virginiadot.org/projects/pr-noise-walls-about.asp>

A noise barrier wall is a specially designed structure built to reduce noise levels created by nearby highway traffic. It is built only after noise impact studies are conducted and certain conditions are met. VDOT conducts studies and looks into options for reducing noise levels along proposed federally funded highway improvement projects. In order to be considered for noise abatement, projects must meet one of the following conditions:

- (1) The construction of a highway on new location; or,
- (2) The physical alteration of an existing highway where there is either:

- (i) Substantial Horizontal Alteration. A project that halves the distance between the traffic noise source and the closest receptor between the existing condition to the future build condition; or,
- (ii) Substantial Vertical Alteration. A project that removes shielding therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography between the highway traffic noise source and the receptor; or,
- (3) The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a HOV lane, High-Occupancy Toll (HOT) lane, bus lane, or truck climbing lane; or,
- (4) The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane; or,
- (5) The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange; or,
- (6) Restriping existing pavement for the purpose of adding a through-traffic lane or an auxiliary lane; or,
- (7) The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot or toll plaza.

15.6.2 Applicability

- The requirements outlined in this section apply to all federal-aid projects and projects developed to qualify for federal-aid that meet one of the conditions outlined above.

15.6.3 Noise Abatement Coordination Process

15.6.3.1 Project Type Determination

Type I projects involve the construction of a highway on new location or the physical alteration of an existing highway which significantly changes the horizontal or vertical alignment or increases the number of through traffic lanes and are further defined in section 15.6.1 (1) through (7). Only those projects determined to be Type I federal-aid projects require noise analysis.

15.6.3.2 Noise Analysis



Although the LPA is responsible for conducting the noise analysis, they must consult with the VDOT Noise Section to ensure that the approach and methodologies being used in the analysis meet FHWA and VDOT's requirements. Moreover, the LPA is required to address all comments provided by the VDOT Noise Section and incorporate suggested changes into the analysis. The LPA may request a coordination meeting with VDOT Noise staff to discuss and plan the analysis.



The LPA will provide the both the draft and final Preliminary Design, as well as the Final Design Noise Analysis Technical Report, to the VDOT Project Coordinator for transmission to the VDOT Noise Section for review. The noise analysis must document the existing, no-build (where applicable), and the design year noise environment, and the results must be included in the NEPA documentation. This information should also be used to ensure that the appropriate Right- of-Way and design considerations occur.

The VDOT Noise Section and FHWA will review and provide comments on the draft Noise Technical Reports within 30 days of receipt from the LPA or their consultant.

15.6.3.3 Noise Abatement Design

The LPA will ensure design and construction of noise abatement (barriers, berms, etc.) as per the approved Final Design Noise Analysis. The LPA will provide the VDOT Noise Section with any changes to design plans that occur after the Final Design Noise Analysis has been approved.

Noise Abatement Specialists use computer models to analyze and predict noise levels based on the loudest hour of the day for future conditions. Along with the road's design, they must consider the area's topography, the distance between the road and nearby properties, traffic speeds and the sounds created by different types of vehicles. The computer model uses that data to predict the future noise level, which is compared with FHWA's and VDOT's noise abatement criteria. If this comparison identifies an impact, noise reduction options must be evaluated.

Several options including noise barriers are available and they are presented in the VDOT Highway Traffic Noise Impact Analysis Guidance Manual.

The noise barriers can reduce traffic noise significantly and improve quality of life for people living behind them. However, noise barriers must meet the following conditions to be feasible and/or reasonable:

To be feasible a noise barrier:

- (1) Must reduce noise levels by at least a 5 decibels to 50 percent (50%) or more of the impacted receptors; and;
- (2) Must be possible to design and construct the noise abatement measure in the proposed location. The factors related to the design and construction include: safety, barrier height, topography, drainage, utilities, and maintenance of the abatement measure, maintenance access to adjacent properties, and general access to adjacent properties (i.e. arterial widening projects)

All of the reasonableness factors listed below must collectively be achieved in order for a noise abatement measure to be deemed reasonable:

- (1) The viewpoints of the affected citizens shall be obtained through surveys. Fifty percent (50%) or more of the respondents shall be required to favor the noise abatement measure in determining reasonableness, and
- (2) The noise barrier must be 1,600 square feet or less per benefited receptor to be considered cost-effective, and
- (3) The noise barrier shall reduce noise levels by 7 decibels for at least one
- (4) Noise impacted property.

15.6.3.4 Citizen Coordination

After the approval of the Final Design Noise Analysis by the VDOT Noise Section, and the concurrence from the VDOT's Chief Engineer and FHWA, the LPA will send out certified survey letters to affected property owners as outlined in VDOT's *Highway Traffic Noise Impact Analysis Guidance Manual*. The citizen barrier voting package shall be reviewed and approved by the VDOT Noise Section prior to mailing. A graphic is also required as part of the mailing. An example of the cover letter and survey for the citizens is located at <http://www.virginiadot.org/projects/pr-noise-walls-about.asp>

The affected citizens have the final say in the construction of barriers. If fifty percent or more of the benefited properties are in favor of the noise barrier, the barrier is included as part of the construction plans. A property is said to be benefitted if it receives 5 decibels or more of noise reduction.

The LPA will provide the results of the citizen survey to the VDOT Noise Section.

VDOT Responsibilities:

- *The District Environmental Manager (or designee) will coordinate with the VDOT Noise Section to determine if the project is Type I, and whether or not a noise analysis will need to be performed.*

- *The District Environmental Manager (or designee) will provide the VDOT Project Coordinator the VDOT Noise Section's determination within 7 business days of the request. The VDOT Project Coordinator will convey this information to the LPA.*
- *The VDOT Project Coordinator will facilitate the LPA's coordination of any design changes made to the plans after the completion of the Final Noise Abatement Report with the VDOT Noise Section.*
- *The VDOT Noise Section will obtain the Chief Engineer/FHWA concurrence memorandum and provide it to the VDOT Project Coordinator via the District Environmental Manager (or designee). The VDOT Project Coordinator will convey it to the LPA.*
- *The VDOT District Environmental Manager (or designee) will upload all relevant documentation and project materials into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all required noise abatement measures into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*

15.6.4 References/Links

- [VDOT "About Noise Walls"](#)
- [State Noise Abatement Policy](#)
- [FHWA's Highway Traffic Noise Analysis and Abatement Policy and Guidance](#)
- [Bridge Manuals Soundwall; Volume V-Part 12](#)

15.7- AIR QUALITY

15.7.1 [Introduction](#)

15.7.2 [Applicability](#)

15.7.3 [Air Quality Coordination Process](#)

15.7.4 [References/Links](#)

15.7 AIR QUALITY

15.7.1 Introduction

The Clean Air Act requires that transportation projects not result in, or contribute to, a violation of the National Ambient Air Quality Standards (NAAQS), or delay timely attainment of them. As such, all federally-funded transportation plans, improvement programs, and projects must be shown to conform to the purpose of the Air Quality State Implementation Plan (SIP) in all non-attainment and maintenance areas throughout Virginia. This process is called Transportation Conformity and applies to regional long-range transportation plans (LRTP) and transportation improvement programs (TIP), as well as individual transportation projects.

Every regionally significant transportation project must be included in a conforming LRTP and/or TIP. Regional transportation conformity requirements are generally met by performing a regional emissions analysis for various analysis years throughout the timeframe of the LRTP, and the total projected air pollutant emissions must be demonstrated to fall below the motor vehicle emissions budgets included in the applicable Air Quality Plan. This function is typically performed by VDOT, or in the case of Northern Virginia, by the Metropolitan Washington Council of Governments.

In addition, NEPA requires each federally-funded transportation project be evaluated for its potential impact on air quality in the immediate vicinity of the project. Each applicable project must demonstrate that sensitive populations will not be exposed to pollutant concentrations above an applicable air quality standard. Depending upon its location, each project may need to be evaluated for its impact on carbon monoxide (CO), fine particulate matter (PM_{2.5}), and mobile source air toxics (MSAT). VDOT's [Project-Level Air Quality Resource Document](#) sets standards for air quality assessment work and must be followed to avoid approval delays.

15.7.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.
- Regionally significant non-federal aid projects, as identified in VDOT's SYIP.
- Transportation conformity requirements apply only to transportation projects located in Virginia's air quality nonattainment and maintenance areas. Currently, this only includes the Northern Virginia region.

15.7.3 Air Quality Coordination Process

The LPA will review the requirements outlined in VDOT's [Project-Level Air Quality Analysis Resource Document](#) and in consultation with VDOT Environmental Staff to determine which, if any, project-level air studies (i.e. PM_{2.5} CO Analysis, and/or MSAT) are required, as well as the appropriate level of analysis (i.e. qualitative or quantitative).



The LPA will prepare an air quality analysis protocol in accordance with [VDOT's Air Scoping Guidelines for Project-Level Air Quality Analyses](#) and submit to the VDOT Project Coordinator (who will coordinate with the District Environmental Manager (or designee) and the VDOT Air Section) for review/comment. The VDOT Air Section will provide comments and recommendations within five (5) business days of receipt.

The LPA will perform the required project-level air quality analyses and submit an electronic draft to the VDOT Project Coordinator for submission to VDOT's Air Section via the District Environmental Manager (or designee). The VDOT Air Section will provide comments within 10 business days of receipt. After consideration of VDOT's comments, the LPA will submit an electronic copy of the final analyses to the VDOT Project Coordinator for submission to VDOT's Air Section via the District Environmental Manager (or designee). When appropriate, VDOT Air Quality Staff will submit the final analysis to FHWA for review and approval.

VDOT Responsibilities:

- *The VDOT Project Coordinator and the District Environmental Manager (or designee) will work with the VDOT Air Section to provide technical advice to the LPA, as requested during development of the Air Quality analyses.*
- *The VDOT Air Section will review and provide comments for protocols within five (5) business days of receipt. Comments for draft analyses will generally be provided within 10 business days of receipt.*
- *The VDOT Air Section will submit draft/final project-level air studies to FHWA as appropriate.*
- *The District Environmental Manager (or designee) will upload all relevant documentation and project materials into CEDAR.*

15.7.4 References/Links

- [Interim Guidance on Mobile Air Toxic Analysis in NEPA documents - FHWA Guidance Memorandum September 30, 2009](#)
- [2009 FHWA –VDOT Project Level Carbon Monoxide Air Quality Studies Agreement](http://www.virginiadot.org/projects/resources/air/2009_FHWA-VDOT_Project_Level_Carbon_Monoxide_Air_Quality_Studies_Agreement.pdf)
- [VA Department of Environmental Quality - Air regulation](#)
- [VDOT's Project-Level Air Quality Resource Document](#)
- [FHWA Air Quality](#)
- [FHWA Air Toxics](#)
- [2016 FHWA-VDOT Programmatic Agreement for Project Level Air Quality Studies for Carbon Monoxide](#)
- [Air Scoping Guidelines for Project Level Air Quality Analyses](#)

15.8- WATER QUALITY PERMITS

15.8.1 [Introduction](#)

15.8.2 [Applicability](#)

15.8.3 [Water Quality Permitting Coordination Process](#)

15.8.4 [References](#)

15.8 WATER QUALITY PERMITTING

15.8.1 Introduction

There are varieties of different state and federal regulations that are applicable when a transportation project impacts streams, wetlands, or other Waters of the United States (WOUS). LPAs should expect to consult with the US Army Corps of Engineers (USACE) for permits for fill and/or excavation to WOUS, including wetlands. Additionally, LPAs may be required to consult with the Virginia Department of Environmental Quality (VDEQ) and/or the Virginia Marine Resources Commission (VMRC) for permits based on the scope of the project and potential impacts to WOUS. LPAs bordering the Tennessee River or any of its tributaries may be required to also obtain permits through the Tennessee Valley Authority (TVA). Project permitting can be challenging as well as time consuming, and consultant assistance is highly recommended if qualified in-house staff is not available to assist with this undertaking.

15.8.2 Applicability

- The requirements outlined in this section are applicable to all transportation projects.

15.8.3 Water Quality Permitting Coordination Process

The locality must design its projects in accordance with all applicable laws and regulations, and is responsible for obtaining all necessary regulatory approvals, permits, and licenses for each project, which may include United States Coast Guard (USCG) permits over navigable waterways and USACE permits for impacts to WOUS (streams and wetlands), as well as any other permits issued by state agencies. Unless otherwise agreed to, VDOT will not be involved in the LPA's efforts to obtain the regulatory approvals, permits, or licenses.



Prior to federal authorization for construction advertisement, the LPA must submit a completed and signed [Natural Resources Due Diligence Certification Checklist](#) (EQ-555) with supporting documentation such as permit authorizations, agency correspondence, environmental commitments, etc. This documentation must be submitted as part of the PS&E Submittal Package (see chapter 12.6). VDOT cannot complete the PS&E Re-Evaluation or the Environmental Certification (EQ-103) without this information.



Frequently, there are conditions associated with the issuance of water quality permits. Compliance with permit conditions is the sole responsibility of the LPA. Regulatory agencies will enforce permit conditions.

VDOT Responsibilities:

- *The District Environmental Manager (or designee) will provide the Natural Resources Due Diligence Certification Checklist (EQ-555) to the LPA.*
- *The VDOT District Environmental Manager (or designee) receives the LPA's completed and signed Natural Resources Due Diligence Certification Checklist (EQ-555), and copies of documentation from regulatory agencies (e.g. clearance correspondence or permits obtained) supporting it, from the VDOT Project Coordinator.*
- *The VDOT District Environmental Manager (or designee) will upload all relevant documentation and project materials into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all environmental commitments into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project.*

15.8.4 References

- [Virginia Department of Environmental Quality - Water Division](#)
- [US Army Corps of Engineers - Norfolk District](#)
- [Virginia Marine Resource Commission](#)
- [Natural Resources Due Diligence Certification Checklist \(EQ-555\)](#)
- [Tennessee Valley Authority](#)

15.9- CONSTRUCTION ADMINISTRATION

15.9.1 [Introduction](#)

15.9.2 [Applicability](#)

15.9.3 [T&E Coordination](#)

15.9.4 [References/Links](#)

15.9 THREATENED AND ENDANGERED SPECIES

15.9.1 Introduction

LPAs are required to meet all state and federal requirements pertaining to Threatened and Endangered (T&E) species, and to address the potential effects and impacts of their projects on both state and federal-listed T&E species in consultation with the appropriate regulatory agencies. LPAs may expect to coordinate with the US Fish and Wildlife Service (USFWS), the Virginia Department of Game and Inland Fisheries (DGIF), the Division of Natural Heritage (DNH) within the Virginia Department of Conservation and Recreation (DCR), as well as the VDOT District Environmental Section.

15.9.2 Applicability

- The requirements outlined in this section are applicable to federal-aid projects, projects developed as federally eligible and projects requiring federal permits.

15.9.3 T&E Coordination

The LPA will perform data base reviews to determine if listed state/federal T&E species exist within the project area. The review will include data available from DCR-DNH, DGIF as well as the USFWS Information, Planning and Conservation System (IPaC). The LPA should also review the [Center for Conservation Biology Eagle Nest Locator](#), the [DGIF ArcGIS Northern-long eared bat Winter Habitat and Roost Trees Application](#), and the [DGIF ArcGIS Little Brown Bat and Tri-colored Bat Winter Habitat and Roosts Application](#) for more specific location information pertaining to these species. Based on this initial review, LPAs would then coordinate with the appropriate regulatory agencies, and conduct any technical studies (i.e. habitat assessment, species surveys, Biological Evaluations or Biological Assessments) as required.

Please be aware that most species requiring surveys have defined times of the year, also referred to as survey windows, when work must be conducted. Frequently, these survey windows represent a relatively short period of time to perform the work. Failure to schedule species surveys in a timely fashion may result in missing the survey window and having to wait until the next survey window (typically the following year) to perform the work, potentially resulting in significant project delays.



The LPA will provide the VDOT Project Coordinator with the results of their coordination, as well as any studies, in conjunction with a completed and signed [Natural Resources Due Diligence Certification Checklist](#) (EQ-555) for conveyance to the District Environmental Manager (or designee). Information related to the potential presence of federally-listed T&E species is necessary for completion of the NEPA document. T&E documentation is also necessary for the District Environmental Manager to complete the PS&E re-evaluation and Environmental Certification required for project advertisement.

In order to comply with state and federal requirements, the LPA must incorporate all environmental commitments agreed to with the regulatory agencies during the T&E coordination process into their project plans and/or construction documents (e.g. avoidance of specified area, relocation of species prior to ground disturbance, Time-of-Year Restrictions, etc.).

VDOT Responsibilities:

- *The District Environmental Manager (or designee) will provide the Natural Resources Due Diligence Certification Checklist (EQ-555) to the LPA.*
- *The VDOT District Environmental Manager (or designee) receives the LPA's completed and signed Natural Resources Due Diligence Certification Checklist (EQ-555), and copies of documentation from regulatory agencies (e.g. clearance correspondence or permits obtained) supporting it, from the VDOT Project Coordinator.*

- *The District Environmental Manager (or designee) will upload all relevant documentation and project materials into CEDAR.*
- *The VDOT Project Coordinator will verify that the LPA has incorporated all environmental commitments into their design plans, and the Area Construction Engineer (ACE) will verify that they have been incorporated into the construction project*

15.9.4 References/Links

- [US Fish & Wildlife Service Endangered Species Act](#)
- [Virginia Department of Conservation & Recreation's Division of Natural Heritage](#)
- [Virginia Department of Game & Inland Fisheries](#)
- [Natural Resources Due Diligence Certification Checklist](#)

15.10- HAZARDOUS MATERIALS

15.10.1 [Introduction](#)

15.10.2 [Applicability](#)

15.10.3 [Hazardous Materials Coordination Process](#)

15.10.4 [References](#)

15.10 HAZARDOUS MATERIALS

15.10.1 Introduction

LPAs are responsible for performing an appropriate level of environmental “due diligence” to determine any “recognized environmental conditions” (RECs) on properties that will be acquired for the project. Additionally, LPAs will need to determine any such conditions on existing right-of-way that might impact construction activities. Such RECs can indicate a continuing release, past release, or a material threat of a release of hazardous substances or petroleum into the soil, groundwater or surface water of the property or adjacent properties, or the presence of such impairments associated with buildings or structures.

All due diligence investigations must satisfy the practices that constitute All Appropriate Inquiries into the previous ownership and uses of the property compliant with 40 CFR Part 312 and consistent with good commercial or customary practice as defined in 42 U.S.C. 9601(35) (B). As referenced in 40 CFR Part 312, accepted industry environmental due diligence procedures are available through [ASTM-International](#). When RECs are determined to be present, the LPA is responsible for coordinating with appropriate environmental agencies to determine what, if any, regulatory requirements must be met prior to, during, and/or following construction. The LPA should be mindful that regulations and industry standards discuss the timeframes when all appropriate inquiry studies must be updated to qualify for liability relief.

The LPA should take prudent steps to avoid, minimize, contain or otherwise manage potential impacts from contamination or potential sources of contamination through alignment shifts or design changes. Where such impacts cannot feasibly be avoided, the LPA is responsible for developing cost estimates for site closure/remediation/mitigation and addressing the impacts either prior to project construction (e.g. underground storage tank closure) or during the construction phase through the use of specific contract provisions.

The responsible entity must also ensure that appropriate inspections are made for asbestos containing materials and that provisions are made to remove/abate or otherwise mitigate such hazards. VDOT can provide copies of established procedures for asbestos inspection, asbestos abatement, and asbestos project monitoring that the LPA can follow.

15.10.2 Applicability

- Federal-aid projects and projects developed to qualify for federal aid.
- All projects where VDOT will own the right-of-way and/or maintain the project after construction.

15.10.3 Hazardous Materials Coordination Process

The District Environmental Manager (or designee) will provide the LPA an inventory of known RECs within the project corridor. The LPA should use this information in addition to field review and any prudent further due diligence activities they deem appropriate.



After completion of the due diligence activities, the LPA must submit a completed and signed [Hazardous Materials Due Diligence form \(EQ-121\)](#) to the VDOT Project Coordinator for conveyance to the District Environmental Manager prior to the NEPA decision. This form will also be used by the VDOT District Right-of-Way Manager for Right-of-Way Certification prior to Right-of-Way Authorization and by the District Environmental Manager for PS&E Re-evaluation and Environmental Certification prior to project advertisement.

At times, hazardous materials mitigation must be performed during construction. On these occasions, the LPA will need to prepare special contract provisions and/or special provision copied notes to address hazardous materials issues on a project (e.g. petroleum contamination, lead paint, asbestos inspections, abatement, and monitoring). VDOT has a number of special provisions and the LPA is encouraged to coordinate with the District Environmental Manager (or designee) to obtain these provisions. An

additional resource is the VDOT-produced video [“Hazardous Materials Issues with Locally Administered Transportation Projects”](#) on YouTube.



It is the LPA’s responsibility to ensure that they have managed solid wasted, hazardous waste, and hazardous materials in accordance with all applicable environmental regulations; and that they have implemented good housekeeping, waste minimization, and pollution prevention practices for their project.

VDOT Responsibilities:

- *The District Environmental Manager (or designee) provides information about known RECs, and the EQ-121 to the LPA at kick off or scoping meeting.*
- *The VDOT Project Coordinator receives the completed and signed EQ-121 form from the LPA and conveys it to both the VDOT District Environmental and Right-of-Way Managers, so that they can proceed with the NEPA decision, Right-of-Way certification, and PS&E re-evaluation / Environmental Certification processes.*
- *The District Environmental Manager (or designee) will upload all relevant documentation and project materials into CEDAR.*

15.10.4 References

- [ASTM-International](#)
- [Virginia Department of Environmental Quality - Waste](#)
- [Hazardous Materials Due Diligence form \(EQ-121\)](#)
- [VDOT Asbestos Specifications](#)

15.11- ENVIRONMENTAL RE-EVALUATIONS & CERTIFICATION

15.11.1 [Introduction](#)

15.11.2 [Applicability](#)

15.11.3 [Right of Way Re-evaluation](#)

15.11.4 [PS&E Re-evaluation & Environmental Certification](#)

15.11 RE-EVALUATIONS AND CERTIFICATION

15.11.1 Introduction

The VDOT District Environmental Manager must certify that the environmental documentation is complete and valid prior to federal Right-of-Way and construction authorizations.

15.11.2 Applicability

All federal-aid projects and projects developed to qualify for federal-aid.

15.11.3 Right of Way Re-evaluation



Prior to Right-of-Way authorization (when the acquisition involves federal Right-of-Way funds), VDOT must confirm that the Right-of-Way proposed for purchase conforms to the footprint studied in the NEPA document. This is documented by VDOT in the Right-of-Way Re-evaluation form (EQ-201) and provided to FHWA.

Projects for which a Programmatic Categorical Exclusion (PCE) has been prepared are not subject to a formal Right-of-Way Re-evaluation using the EQ-201 form; however, FHWA regulation still requires a re-evaluation prior to a major federal approval. Therefore, LPAs should contact the District Environmental Section prior to seeking Right-of-Way Authorization to ensure that the NEPA approval is still valid.

VDOT Responsibilities:

- *The VDOT Project Coordinator provides the PM-130 form to the District Environmental Manager (or designee) to trigger the review for Right-of-Way authorization.*

- *The District Environmental Manager reviews the plans and environmental documentation submitted by the LPA, and completes the Right-of-Way Re-evaluation form (EQ-201) within 15 business days of receipt.*
- *The District Environmental Manager (or designee) will send a copy of the completed Right-of-Way Re-evaluation (EQ-201) to the VDOT Project Coordinator for conveyance to the LPA, and upload a copy into CEDAR.*

15.11.4 PS&E Re-evaluation & Environmental Certification



Prior to Construction authorization by FHWA, the District Environmental Manager will conduct a PS&E Re-Evaluation (EQ-200) to confirm that the plans proposed for construction match the footprint originally studied in the NEPA document, as well as an Environmental Certification (EQ-103) that all required environmental permits, environmental commitments and conditions have been fulfilled, or plans are in place to fulfill them.

The environmental documentation and project plans that the LPA provides to the VDOT Project Coordinator are forwarded to the District Environmental Manager who will review them and complete the Plans, Specifications, and Estimates (PS&E) Re-evaluation form (EQ-200) and the Environmental Certification Checklist (EQ-103). Together, these communicate to both VDOT and FHWA that the environmental documentation prepared by the LPA is sufficient to advance their project to construction.

Prior to requesting authorization to advertise the project, the LPA Project Manager should review the requirements identified in these forms and ensure that all of the necessary documentation is complete and has been submitted to the VDOT Project Coordinator. Incomplete or missing documentation will delay VDOT's ability to conduct the necessary re-evaluations required to request FHWA authorization for project advertisement.

VDOT Responsibilities:

- *VDOT Project Coordinator provides the PM-130 form to the District Environmental Manager (or designee) to trigger the review for PS&E authorization.*
- *The District Environmental Manager reviews the plans and environmental documentation submitted by the LPA, including the EQ-121 and signed EQ-555, and completes the PS&E Re-evaluation (EQ-200) and Environmental Certification (EQ-103) forms within 15 business days of receipt.*
- *The District Environmental Manager (or designee) will send a copy of the completed PS&E Re-evaluation (EQ-200) and Environmental Certification (EQ-103) to the VDOT Project Coordinator for conveyance to the LPA, and upload a copy into CEDAR.*

15.12- ENVIRONMENTAL MONITORING DURING CONSTRUCTION

15.12.1 [Introduction](#)

15.12 Environmental Compliance

15.12.1 Introduction

Coordination with state and federal regulatory agencies and completion of NEPA documents may result in environmental commitments that must be implemented during design, construction, or post-construction. It is the responsibility of the LPA to ensure environmental process steps or environmental commitments made to regulatory agencies are implemented both in design and construction.






The VDOT Project Coordinator will verify that the LPA has incorporated all design commitments in to their design plans. The VDOT Area Construction Engineer (ACE) will conduct periodic monitoring of environmental commitments identified in the NEPA process, specifically those resulting from Section 106, Section 4(f), and federal T&E coordination, as well as the Noise Analyses. Failure to implement environmental commitments can result in the LPA's loss of federal aid or the possibility of fines and criminal convictions.







LPAs are responsible for the compliance with all environmental laws and regulations applicable to their projects.

Chapter 15 – Environmental – Checklist

CH 15 - Environmental

Localities and VDOT are responsible for ensuring that the environment is protected from potential adverse impacts due to transportation projects. As defined, the environment includes both natural and cultural resources. LPAs must comply with NEPA when using federal funds or when the project is federal eligible. LPAs must comply with SERP when using state funds (\$500,000 or more). This checklist outlines the elements and processes that must be addressed to ensure compliance on a broader scale with NEPA for federally funded projects and on a narrower scale with SERP for State funded projects.

<i>SUBMIT</i>	<i>COMPL</i>	<i>F</i>	<i>S-V</i>	<i>S-L</i>	<i>TA</i>	<i>UCI</i>	<i>Requirement</i>	<i>Reference</i>	
								<i>LAP</i>	<i>Other**</i>
	<input type="checkbox"/>	X	X	X	X	X	Submit EQ-429 Project Early Notification Form & project location map	15.1.1	
	<input type="checkbox"/>	X***	X***	X***	X	X	Hold Scoping/kickoff meeting or discussion	15.1.1	
	<input type="checkbox"/>	X	X	X	X	X	Obtain Environmental Scoping Recommendations from VDOT	15.1.1	
	<input type="checkbox"/>		X	X	X	X	Comply with SERP for State-funded construction projects valued at \$500,000 or more.	15.3	
	<input type="checkbox"/>	X	--	--	X	X	Consult with District Environmental Section regarding level of NEPA document and prepare and submit NEPA Concurrence form for CEs and EAs	15.2.1 and 15.2.3	42USC4332 40CFR1500-1508
	<input type="checkbox"/>	X	--	--	X	X	Prepare and submit NEPA document and supporting documentation for PCE/CE	15.2.4	42USC4332 40CFR1500-1508
	<input type="checkbox"/>	X	--	--	X	X	Complete NEPA EA (if required) prior to Public Hearing and any R/W acquisition	15.2.5	42USC4332 40CFR1500-1508
	<input type="checkbox"/>	X	--	--	X	X	Coordinate Section 106 process with VDHR, including eligibility and effect; submit technical reports and VDHR correspondence to VDOT. Consult with VDOT if a project has an adverse effect	15.4	16USC470f

							and an MOA is required.		
	<input type="checkbox"/>	X	--	--	X	X	Coordinate with VDOT regarding the use of 4(f) resources, and complete <i>de minimis</i> coordination, and Section 4f Evaluation, if applicable	15.5	23CFR774 49USC303 23USC138
	<input type="checkbox"/>	X	--	--	X	X	Coordinate methodologies, analyses, and findings with VDOT's Noise Section when applicable	15.6	42USC4332(2)
	<input type="checkbox"/>	X	--	--	X	X	Coordinate the development of Air Quality Analyses with VDOT's Air Section	15.7	42USC1857
	<input type="checkbox"/>	X	--	--	X	X	Coordinate with resource agencies, submit signed EQ-555 form, water quality permits/T&E clearances and supporting documentation to VDOT	15.8 and 15.9	42USC4321- 4347
	<input type="checkbox"/>	X	X	--	X	X	Complete Hazardous Materials reviews, studies, and EQ-121 form, and submit with supporting documentation to VDOT	15.10	42USC6901- 6991k
	<input type="checkbox"/>	X	--	--	X	X	Notify VDOT PC when ready for authorization at R/W and/or construction advertisement. LPA submits EQ-121 (for RW Re-Evaluation) and signed EQ-555 (for PS&E/Environmental Certification) with supporting documentation to VDOT. District Environmental Manager performs the reviews and completes the EQ-201 and EQ-200/EQ-103.	15.11	

** For additional USC and CFR references see Appendix 15.1 - B

*** While not required, this is strongly recommended for all projects