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**RECREATIONAL TRAILS PROGRAM (RTP)
ENVIRONMENTAL REVIEW AND PUBLIC COMMENT REQUIREMENTS**

As a federally funded program all RTP projects are considered federal actions. As a federal action, all projects must demonstrate compliance with the National Environmental Policy Act; Section 106 of the Historic Preservation Act; Section 7 of the Endangered Species Act; and Executive Orders 11988 and 11990 (Floodplain Management and Wetland Protection,) and where applicable, consistency with the Coastal Zone Management Act.

The purpose of the environmental review is to provide information about the RTP proposal and the anticipated impacts. The environmental documentation becomes part of the federal record for the project. Identifying potential impacts helps guide the appropriate National Environmental Policy Act pathway for the project. There are three pathways which may be appropriate: 1) Categorical Exclusion, 2) Environmental Assessment or 3) Environmental Impact Statement.

The federal legislation that coordinates the consideration of the potential for impacts to the human environment as a result of a federal action is the National Environmental Policy Act (NEPA). The National Environmental Policy Act (NEPA) of 1969, as amended, is landmark environmental protection legislation which established creating a balance between the use and preservation of natural and cultural resources as a goal. The NEPA process coordinates compliance with separate but related federal, state, and local environmental requirements.

Environmental Review Coordination

At a minimum, compliance by the applicant with the following federal laws and executive orders shall be coordinated during the environmental review process and should be integrated into the impact analysis.

National Historic Preservation Act, (NHPA) Section 106, as amended.

Section 106 of NHPA requires analysis of the effects of federal actions on historic properties. The State Historic Preservation Office (SHPO), Tribal Historic Preservation Officers (THPO), and as necessary, the Advisory Council on Historic Preservation must be given a reasonable opportunity to review and comment on these actions. Section 106 review and NEPA are two separate, distinct processes. They can and should occur simultaneously but one is not a substitute for the other. The information and mitigation gathered as part of the Section 106 review must be included in the NEPA document. The Section 106 process must be completed by the project sponsor before FHWA can sign a categorical exclusion or issue a finding of no significant impact (FONSI) or a record of decision (ROD) so that the proposal may be approved for a grant.

In Virginia, the Department of Historic Resources (DHR) is the resource agency responsible for issuing determinations regarding compliance with NHPA, Section 106. Project sponsors must READ and FOLLOW the instructions posted on the DHR website for obtaining a NHPA Section 106 project review. The DHR website with instructions is located at:

<https://www.dhr.virginia.gov/environmental-review/federal-project-review/>

*For the purposes of this review, the federal entity is the Federal Highway Administration, the program is the Recreational Trails Program and the Code of Federal Domestic Assistance number is 20.219. **The Section 106 review process is a two part process. An archival review followed by a federal project review.*** The archival review is a required component of the project review process for Section 106 reviews. A letter from DHR that provides a NHPA Section 106 determination is required for obtaining project approval from the FHWA.

Endangered Species Act, (ESA) Section 7

Section 7 of the Endangered Species Act (ESA) requires consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service on any action that may affect endangered or threatened species or candidate species or that may result in adverse modification of critical habitat. For RTP purposes the applicant must carry out this consultation and provide evidence that it has occurred.

The U.S. Fish and Wildlife Service has created an 8-step, online project review portal. The website is located at

<https://www.fws.gov/northeast/virginiafield/endangered/projectreviews.html>.

Applicants should READ and FOLLOW the instructions for obtaining a review. **All 8 steps must be completed for the review to be considered valid.** Applicants must submit to DCR a copy of the completed USFWS online review (IPAC area, Official Species List, Species Conclusion Table, the supporting documentation along with the determination letter from the USFWS, etc.).

Note that Step 2, of the USFWS online review requires an “official species list” to be generated by the USFWS and Step 3 requires coordination with the Virginia Division of Natural Heritage and the Virginia Department of Game and Inland Fisheries.

Virginia Division of Natural Heritage

Instructions for obtaining project review comments from the Virginia Division of Natural Heritage are online at <http://www.dcr.virginia.gov/natural-heritage/ereview>. Please READ and FOLLOW the instructions for obtaining a review using the information services order form. Any information regarding federally listed species received from the Division of Natural Heritage must be documented on the Species Conclusion Table for the USFWS project review. Applicants must provide a copy of the comment letter received from the Virginia Division of Natural Heritage to DCR.

Virginia Department of Game and Inland Fisheries

Instructions for obtaining project review comments from the Virginia Department of Game and Inland Fisheries are online at <https://www.dgif.virginia.gov/environmental-programs/environmental-services-section/>

Please READ and FOLLOW the instructions for obtaining a review under “Project and Permit Review Process”. **Be sure to submit the request for the project review using the emailProjectReview@dgif.virginia.gov.** Applicants must provide a copy of the comment letter or email received from the Virginia Department of Game and Inland Fisheries to DCR. Any information regarding federally listed species received from the Department of Game and Inland Fisheries must be documented on the Species Conclusion Table for the USFWS project review. Comments from the Department of Game and Inland Fisheries are required to demonstrate compliance with Code of Virginia 3.2-1000 Plant and Insect Species Act and 29.1-563 Endangered Species Act.

Floodplain Management and Wetland Protection, Executive Orders 11988 and 11990

Executive Orders 11988 and 11990 direct the avoidance to the maximum extent possible of long and short term adverse impacts associated with modifying or occupying floodplains and wetlands. These orders also require the avoidance of direct or indirect support of floodplain or wetland development whenever there is a practical alternative. For RTP purposes, applicants must comply with this executive order. Evidence documenting the applicant’s coordination efforts with responsible state and federal authorities for determining floodplain management and wetland impacts must be submitted to DCR. For proposals involving floodplain areas coordination with the local entity responsible for floodplain management is needed to determine potential impacts. For proposals involving wetlands or potential wetlands, coordination with the Virginia Department of Environmental Quality, U.S. Army Corps of Engineers and Virginia Marine Resources should be initiated. The Virginia Department of Environmental Quality has general guidance information on wetlands posted at <https://www.deq.virginia.gov/Programs/Water/WetlandsStreams/Permits.aspx>.

Coastal Zone Management Act Federal Consistency Determination

Pursuant to the Coastal Zone Management Act (CZMA), federal actions with potential effects on any land or water use or natural resources within Virginia's coastal zone must be consistent with the enforceable policies of the Virginia Coastal Resources Management Program. The federal consistency regulations implement the CZMA requirement that federal actions be consistent with the enforceable policies of a coastal state’s federally approved coastal management program, before they can occur. Effects include both direct and indirect which result from the activity. The Virginia Department of Environmental Quality (DEQ) is responsible for compliance with CZMA and issuing consistency determinations. DEQ has created an online Federal Consistency Information Package. The link to the package is <https://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx>.

The czma review procedures are outlined on the DEQ website at:

<https://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#review>

Applicants with proposals occurring within the Coastal Zone Management Area must request a consistency determination from the DEQ. Please READ the Federal Consistency Information Package and follow the instructions. In submitting the request to the DEQ provide a description which indicates *the request for the federal consistency determination is due to federal funding assistance from the Recreational Trails Program of the Federal Highway Administration which is administered in Virginia by the Department of Conservation and Recreation*. Applicants with projects occurring in the Coastal Zone Management Area must submit the response letter from the DEQ to DCR.

Projects not occurring in the Coastal Zone Management area do not have a federally consistency determination. Please use the map posted on the DEQ website to determine if your project needs a federal consistency determination.

Environmental Justice in Minority and Low-Income Populations, Executive Order 12898. Executive Order 12898 directs federal agencies to assess whether their actions have proportionately high and adverse human health or environmental effects on minority and low-income populations. For RTP purposes, applicants must specifically analyze and evaluate the impact of the RTP proposal on minority and low-income populations and communities, as well as the equity of the distribution of the benefits and risks.

RTP PE sub-grant recipient must contact their VDOT district residency office and/or district for comments on the proposed project. Contact information for each office can be found at the following link: http://www.virginiadot.org/about_vdot/residencies.asp

Public Comment

To demonstrate compliance with public comment requirement of NEPA, public input to the proposed project must be solicited through a legal advertisement in a daily newspaper with the widest circulation in the immediate project area. The public notice must be published at least once per week for at least two consecutive weeks in a newspaper of general weekly circulation or published three consecutive days in a paper of general daily circulation in the service area(s) involved in the project. **The notice must include a brief description of the proposed project and its anticipated impacts.** The notice must include the name, address, and contact information of the applicant and the location where detailed information about the project can be found for review by the public. Comments should be provided in writing. Evidence of the public comment must be submitted to DCR before any grant will be awarded.

To satisfy evidence of a public comment period the following information is required:

- a) A photocopy of the legal advertisement showing the date(s) on which it ran in the newspaper.
- b) A description of the total public involvement for this project beyond the legal advertisement.
- c) A description of the nature of the public comments received during the official public comment period. Provide a tally of comments in support of the project and those against it.
- d) A summarization of the most important comments received and your responses to these comments.
- e) A summarization of changes made to the project as a result of public commenting.
- f) Comments received and made must be available to DCR for review upon request.

Copies of the letters showing environmental coordination for NEPA, Section 106 of the Historic Preservation Act, Section 7 of the Endangered Species Act, Executive Orders 11988 and 11990, Executive Order 12898 and the Coastal Zone Management Program, an updated environmental screening form and the evidence of a public commenting period must be submitted to DCR in order to be able to obligate RTP funding for construction of your project. A complete package of the required documentation may be submitted to jett.johnson@dcr.virginia.gov or mailed to DCR, Recreational Trails Program, 600 East Main Street, Richmond, VA 23219. **Failure to submit the required information to DCR by the deadline provided in your project agreement will result in withdrawal of your project and require that any reimbursed funds be returned to DCR for transfer back to the Federal Highway Administration.**