

**REPORT OF THE
SECRETARY OF NATURAL RESOURCES
AND STATE CORPORATION COMMISSION**

Coordinating the Review of Energy Facilities

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 22

**COMMONWEALTH OF VIRGINIA
RICHMOND
2006**

STATE CORPORATION COMMISSION

MARK C. CHRISTIE
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COMMISSIONER

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COMMISSIONER

COMMONWEALTH OF VIRGINIA



L. PRESTON BRYANT, JR.

SECRETARY OF
NATURAL RESOURCES

December 1, 2006

TO: The Honorable Timothy M. Kaine
Governor, Commonwealth of Virginia

The Honorable Harvey B. Morgan
Chairman, House Committee on Commerce and Labor

The Honorable M. Kirkland Cox
Chairman, House Committee on Agriculture, Chesapeake and Natural Resources

The Honorable William C. Wampler, Jr.
Chairman, Senate Committee on Commerce and Labor

The Honorable Charles R. Hawkins
Chairman, Senate Committee on Agriculture, Conservation and Natural Resources

The Secretary of Natural Resources and the State Corporation Commission hereby transmit the attached report, as required by Chapter 939 of the Virginia Acts of Assembly – 2006 Reconvened Session, regarding coordinated reviews for certain energy facilities.

Respectfully submitted,

Handwritten signature of L. Preston Bryant, Jr. in black ink, written over a horizontal line.

L. Preston Bryant, Jr.
Secretary of Natural Resources

Handwritten signature of Mark C. Christie in black ink, written over a horizontal line.

Mark C. Christie
Chairman, State Corporation Commission

Handwritten signature of Theodore V. Morrison, Jr. in black ink, written over a horizontal line.

Theodore V. Morrison, Jr.
Commissioner, State Corporation Commission

Handwritten signature of Judith Williams Jagdmann in black ink, written over a horizontal line.

Judith Williams Jagdmann
Commissioner, State Corporation Commission

Coordinating the Review of Energy Facilities

**- A Report by the State Corporation Commission and the Secretary of Natural Resources -
December 2006**

Background

The 2006 session of the Virginia General Assembly passed SB 262 that establishes the Virginia Energy Plan. Among the provisions of the act is a requirement for the State Corporation Commission (SCC) and Secretary of Natural Resources (SNR) to develop a proposal for coordinated review of permits for energy facilities requiring environmental permits from agencies or boards within the SNR and a certificate of public convenience and necessity from the SCC.

Coordinated review of state permits and approvals can offer advantages to applicants, state agencies, and the public alike. For the applicant, coordinated review may allow a more straightforward understanding of what permits and approvals are required as well as what information and actions are required to obtain such permits and approvals. There may be a possibility of reducing redundancies in applications and, depending on how coordinated a review process may be, for consolidating public briefings, hearings, and comment periods. These can allow applicants to have more predictable timelines and be more efficient in preparing applications, responding to public input, and working with state agencies. This can yield time and cost savings to the applicant.

For the public, coordinated management of state approvals can make the permitting and approval process more clear and understandable while facilitating opportunities for public comment and other input. Often members of the public, local officials, and community organizations find multiple permit programs and approval processes with multiple hearings and comment periods—each limited to a particular facet of a proposed project—confusing. Coordinated or consolidated processes may clarify timelines, milestones, and public input opportunities.

State agencies may also benefit through coordinated review and collaboration on permits and approvals through information sharing, the potential to reduce redundancies, and, possibly, consolidated public briefings, hearings, and comment opportunities. While there have been some steps toward greater permitting agency coordination, SB 262 envisions greater coordination.

Analysis of Opportunities for Improved Coordination

The Department of Environmental Quality (DEQ) and the SCC have examined SNR agency permits and SCC approvals, processing timelines, and public hearing and related public input requirements for selected energy projects, including:

- Large coal-fired electrical generating plants
- Wind farms for electricity generation

- Electric generation lines in excess of 150 kV
- Intrastate pipelines for natural or manufactured gas
- Intrastate natural gas storage facilities

Appendix A notes approvals or permits required, approval or permit process timelines, and advertising and public input requirements for the example projects. Appendix B focuses on public hearing obligations. One should bear in mind that other types of energy projects may also require permits and, sometimes, an SCC certificate of public convenience and necessity. Also some energy projects may be subject to varying federal approvals and requirements. Other projects that would be pertinent to the Commonwealth's energy supply and infrastructure include biomass-fired power plants, waste-to-energy facilities, landfill gas energy facilities, natural gas and petroleum fueled power plants, liquefied natural gas terminals, petroleum pipelines and terminals, and ocean wave and tidal energy stations, among others. The specific requirements for a particular project will vary based on the location and type of facility.

While the multiplicity of permits and approvals noted in Appendix A indicate potential benefits of coordinated review, it also points to complications. Among the SNR agency permits, there are several governing state statutes with differing permit processing timelines. Moreover, some of the permitting programs operate in Virginia under federal delegation and their administration is subject to Environmental Protection Agency (EPA) approval timelines. This complicates development of common timelines across permit programs. The differences between SNR agency permitting processes and the SCC quasi-judicial formal case approach may also impede coordinated approvals and public input. As one example, SCC formal hearings feature sworn testimony from witnesses that are subject to cross-examination as well as testimony and evidence subject to rulings on admissibility. In contrast, DEQ and its associated Boards (State Air Pollution Control Board, State Water Control Board, and Waste Management Board) typically conduct public hearings and meetings designed to provide information to the public and to obtain public comment on proposed projects without swearing in commenters or subjecting them to cross-examination.

In order to maximize the benefits of increased coordination, a flexible, facility-specific coordination process is needed. In this way, the proponent and the different regulatory agencies can develop a process that accommodates the differences in legal authorities and procedural requirements.

Recommendation

Staff from the SCC and the Natural Resources Secretariat developed an approach that would offer the applicant an opportunity to request a pre-application planning and review process. Upon request, the applicant, the SCC, and pertinent state agencies, with invitations extended to relevant local and federal authorities, would identify needed permits and approvals, develop a preliminary plan and schedule for relevant reviews, and plan for coordinating such reviews and public comment opportunities. This approach calls for designation of specific points of contact in each pertinent agency or for the Commonwealth as a whole. The resulting plan would be available to the public and would be kept up-to-date so that the public, the applicant, and state agencies can track progress of each component of the plan and the status of each review and

approval process. The agencies could implement this approach without further legislation. However, draft legislation to codify this coordinated review process is attached as Appendix C.

This approach would serve the intent of SB 262 by coordinating state review, permitting, and approval processes in contrast to the applicant and public having to approach each agency or permit program separately, in a piecemeal manner. It would provide the applicant better upfront understanding of requirements and more predictable planning of information and resources required to obtain necessary permits and approvals. It would also provide the public and other interested parties a more transparent understanding of the permitting and approval process; status of reviews, permitting, and approvals; and opportunities and scopes for public comment and other input. State agencies would also benefit from coordination and sharing of information that can reduce duplication of effort.

At the same time, this approach avoids some of the difficulties that would attend a unified permitting and approval process. As noted previously, by state statute and sometimes in accordance with federal law and regulation, the relevant agencies and even different permitting programs administered by a single agency are governed by different review timelines and processes, including public comment and federal review processes. The recommended approach recognizes these differences, allowing each agency and permit program to proceed through its processes to issue its separate permits and approvals as required by law. This approach can also be implemented within existing resources of the state agencies and avoids the cost of restructuring the vastly different permitting and approval processes. The recommended approach thus strikes a balance of enhancing coordination while acknowledging the necessary differences and autonomy of different agencies and their permit and approval programs.

Appendix A

Required DEQ and SCC Permits and Approvals

KEY:

Italics: SCC

Bold: DEQ

Plain type: Both

Type of Energy Facility	Approval Required	Timeline	Advertising Requirements	Public information, comment and hearing requirements	Other methods of public input
Coal-fired power plants	SCC certificate of public necessity and convenience	<p><i>Timeline dictated by the completion of procedural due process requirements, which include items such as those listed in the subsequent columns</i></p> <p><i>it is common for procedural dates to be modified during the course of a proceeding in response to formal motions from the parties thereto</i></p>	<p><i>public notice as display advertising in newspapers of general circulation in affected area</i></p> <p><i>may require two publications in consecutive weeks</i></p> <p><i>advertising required by the date(s), and in the exact form, as prescribed in SCC procedural orders for each case</i></p> <p><i>the public notice includes a description of the proposed project, applicable statutes,</i></p>	<p><i>SCC conducts proceeding as a court of record</i></p> <p><i>SCC typically provides for a public hearing</i></p> <p><i>public witnesses testify under oath and subject to cross-examination by formal participants in the case and by the Hearing Examiner</i></p> <p><i>Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses</i></p>	<p><i>no ex parte communications – all input must be formally received in compliance with statutes, regulations, and applicable orders for each case</i></p> <p><i>written and electronic public comment if submitted in compliance with SCC procedural orders for each case</i></p> <p><i>participation as a party, which may include discovery,</i></p>

			<p><i>hearing dates, instructions on how to participate as a public witness, procedures and deadlines for submitting public comments and for participating as a party, and instructions on obtaining application</i></p> <p><i>direct notice to affected localities</i></p> <p><i>applicant must submit proof of publication to be admitted to the record</i></p>	<p><i>multiple public hearings may be held in affected locality and/or in the SCC's courtroom</i></p> <p><i>hearings transcribed by court reporter</i></p>	<p><i>subpoenas, pre-filed direct and rebuttal testimony, evidentiary hearings, post-hearing briefs, comments on Hearing Examiner's Report, petitions for rehearing, appeal of right to the Supreme Court of Virginia</i></p>
	<p>Air pollution permits: 1. Major New Source Review and PSD if facility in NAAQS attainment area or non-attainment permitting if non-attainment area</p>	<p>30 days application completeness review.</p> <p>30 days after completeness review (initial letter of determination--ILOD) Public Notice of Application Submitted published/disseminated.</p> <p>Public Notice of Application Submitted provides at least 30 days notice of DEQ Public</p>	<p>Public will be provided with 30 days prior notice of:</p> <ul style="list-style-type: none"> • A public briefing by DEQ on the draft permit and supporting documentation for the proposed major stationary source. • A comment period in which written comments concerning the draft 	<p>Initial public briefing by applicant.</p> <p>DEQ advertises Public Notice of Application Submitted in at least one newspaper 30 days after ILOD. This also provides at least 30 days notice of DEQ Public Briefing and of Public Comment period (usually day after DEQ Public Briefing).</p>	

	<p>2. Title V operating permit</p>	<p>Briefing.</p> <p>DEQ Public Briefing usually held one day before beginning of 45 day public comment period.</p> <p>Public hearing on 30th day of public comment period.</p> <p>Approximate permit processing time from complete application to permit issued for a major NSR permit: 365 days</p>	<p>permit and supporting documentation for the proposed major stationary source may be submitted to DEQ.</p> <ul style="list-style-type: none"> A public hearing during which written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration. 	<p>Public hearing on 30th day of 45 day public comment period (i.e., public comment 30 days, then hearing, then 15 additional days for comment)</p>	
	<p>Individual VPDES permit for discharge of industrial waste</p>	<p>14 days completeness review</p> <p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period</p>	<p>Public notice (newspaper ad once a week for two weeks, mailing to interested parties, localities and riparian owners informed, web posting) for interested persons to comment and allow</p>	<p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between</p>	

		<p>extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>120 days processing of complete application per Code § 62.1-44.16, but major dischargers require EPA review, which may add 90 days</p>	<p>request for hearing.</p> <p>If hearing granted by Board (9VAC 25-230) advertise in general circulation newspaper in locality where activity is to occur at least 30 days before hearing.</p>	<p>advertisement of hearing and hearing plus 15 days for comment after hearing.)</p>	
	<p>VWPP authorizing water withdrawals and impacts to state waters (wetlands)</p>	<p>15 days completeness review</p> <p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>Approximate permit</p>	<p>Public notice for interested persons to comment and allow request for hearing.</p> <p>If hearing granted by Board (9VAC 25-230) advertise in general circulation newspaper in locality where activity is to occur at least 30 days before hearing.</p>	<p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p>	

		<p>processing time from complete application to VWPP permit: No greater than 1 year “to the extent practicable” (per Code § 62.1-44.15:5.01)</p> <p>For wetland disturbance: 15 days completeness review</p> <p>Processing time from complete application to issuance of VWPP general permit: 45 days.</p> <p>For individual permits:</p> <p>120 days processing of complete application</p> <p>60 days to hold a public meeting or hearing, if warranted.</p> <p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period</p>			
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		<p>extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>Approximate permit processing time from complete application to permit issued for an individual VWPP authorizing impacts to state waters: 255 days</p>			
	<p>DCR Erosion and Sediment Control permit for construction</p>	<p>Virginia Stormwater Management Program (VSMP) VSMP General Permit for Discharges of Stormwater for Construction Activities</p> <p>Required if disturbing one acre or more (2,500 sq. ft. or more in Chesapeake Bay Preservation locality), including.</p> <p>Upon DCR's receipt of application and permit fee, DCR will mail notice</p>	<p>None</p>	<p>None</p>	

		of coverage.			
	VMRC permit if disturbance of bottomlands, tidal wetlands or coastal primary sand dunes	60-90 days permit processing; plus 60 days for public hearing. For water resource projects, permit processing time from complete application to permit issuance: No greater than 1 year "to the extent practicable" (per Code § 62.1-44.15:5.01)	Application advertised in paper of general circulation in area of proposed project.	N/A	
	Ground Water Withdrawal Permit if 300K+ gallons of water per month in Piedmont or Tidewater	Completed application must be filed at least 270 days before start of construction or operation or before expiration of an existing permit. 45 days completeness review 120 days permit processing	Public notice for interested persons to comment and allow request for hearing. If hearing granted by Board (9VAC 25-230) advertise in general circulation newspaper in locality where activity is to occur at least 30 days before hearing.	30 day public comment period upon initial public notice of draft permit. If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after	

		<p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>Approximate permit processing time from complete application to permit issued for a major NSR permit: 195 days.</p>		<p>hearing.)</p>	
	<p>Waste Program Permit (solid waste)</p>	<p>Part A Siting approval:</p> <p>15 days Part A completeness review</p> <p>90 days minimum Part A permit processing</p> <p>Part B Construction</p>	<p>Notice of availability of draft permit advertised in newspaper and notice provided to localities.</p> <p>At least 30 days notice in newspaper for public hearing for each action</p>	<p>Comment period 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p>	

		<p>Permit:</p> <p>15 days Part B completeness review</p> <p>180 days minimum Part B permit processing</p> <p>Comment period 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>30 days to respond to comments.</p> <p>Approximate permit processing times from complete applications to issuance of both permits: 345 days. Parts A and B can be processed concurrently or sequentially.</p>	<p>item.</p>		
Wind farm	SCC certificate of public necessity and convenience	<i>Timeline dictated by the completion of procedural due process requirements, which include items such as those listed in the</i>	<i>public notice as display advertising in newspapers of general circulation in affected area</i>	<i>SCC conducts proceeding as a court of record</i> <i>SCC typically provides</i>	<i>same as coal-fired power plant</i>

		<p><i>subsequent columns</i></p> <p><i>it is common for procedural dates to be modified during the course of a proceeding in response to formal motions from the parties thereto</i></p>	<p><i>may require two publications in consecutive weeks</i></p> <p><i>advertising required by the date(s), and in the exact form, as prescribed in SCC procedural orders for each case</i></p> <p><i>the public notice includes a description of the proposed project, applicable statutes, hearing dates, instructions on how to participate as a public witness, procedures and deadlines for submitting public comments and for participating as a party, and instructions on obtaining application</i></p> <p><i>direct notice to affected localities</i></p> <p><i>applicant must submit proof of publication to be admitted to the record</i></p>	<p><i>for a public hearing</i></p> <p><i>public witnesses testify under oath and subject to cross-examination by formal participants in the case and by the Hearing Examiner</i></p> <p><i>Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses</i></p> <p><i>multiple public hearings may be held in affected locality and/or in the SCC's courtroom</i></p> <p><i>hearings transcribed by court reporter</i></p>	
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	<p>DCR Erosion and Sediment Control permit for construction</p>	<p>Virginia Stormwater Management Program (VSMP) VSMP General Permit for Discharges of Stormwater for Construction Activities.</p> <p>Required if disturbing one acre or more (2,500 sq. ft. or more in Chesapeake Bay Preservation locality), including.</p> <p>Upon DCR's receipt of application and permit fee, DCR will mail notice of coverage.</p>	<p>None</p>	<p>None</p>	
	<p>VMRC permit required if there is a disturbance of state owned bottomlands (in VMRC jurisdictional waters), tidal wetlands or</p>	<p>60-90 days permit processing; plus 60 days for a public hearing.</p>	<p>Application advertised in paper of general circulation in area of proposed project.</p>		

	coastal primary sand dunes				
Electric transmission lines in excess of 150kV	SCC certificate of public necessity and convenience	<i>same as coal-fired power plant</i>	<i>same as coal-fired power plant</i> <i>direct notice to owners of property within the route of the proposed line</i> <i>to consider routes that are significantly different from those originally noticed, the new routes must be published and mailed in the same manner as the originally noticed routes</i>	<i>same as coal-fired power plant</i> <i>SCC must hold public hearing if requested by any interested party</i> <i>to consider routes that are significantly different from those originally noticed, interested parties in the newly affected areas must receive the same procedural protections afforded those affected by the originally noticed routes</i>	<i>same as coal-fired power plant</i>
	DCR Erosion and Sediment Control permit for construction	Virginia Stormwater Management Program (VSMP) VSMP General Permit for Discharges of Stormwater for Construction Activities. Required if disturbing one acre or more (2,500	None	None	

		<p>sq. ft. or more in Chesapeake Bay Preservation locality), including.</p> <p>Upon DCR's receipt of application and permit fee, DCR will mail notice of coverage.</p>			
	<p>VMRC permit required if project requires crossings (above or below) of waterways.</p>	<p>60-90 days permit processing; plus 60 days for a public hearing.</p>	<p>Application advertised in paper of general circulation in area of proposed project.</p>		
<p>Intrastate pipeline for natural or manufactured gas</p>	<p>SCC certificate of public necessity and convenience</p>	<p><i>same as coal-fired power plant</i></p>	<p><i>same as coal-fired power plant</i></p> <p><i>direct notice to owners of property within the route of the proposed line</i></p> <p><i>to consider routes that are significantly different from those originally noticed, the new routes</i></p>	<p><i>same as coal-fired power plant</i></p> <p><i>SCC must hold public hearing if requested by any interested party</i></p> <p><i>to consider routes that are significantly different from those originally noticed, interested</i></p>	<p><i>same as coal-fired power plant</i></p>

			<i>must be published and mailed in the same manner as the originally noticed routes</i>	<i>parties in the newly affected areas must receive the same procedural protections afforded those affected by the originally noticed routes</i>	
	DCR Erosion and Sediment Control permit for construction	<p>Virginia Stormwater Management Program (VSMP) VSMP General Permit for Discharges of Stormwater for Construction Activities.</p> <p>Required if disturbing one acre or more (2,500 sq. ft. or more in Chesapeake Bay Preservation locality), including.</p> <p>Upon DCR's receipt of application and permit fee, DCR will mail notice of coverage.</p>	None	None	
Intrastate pipeline for natural or manufactured gas: if	Air pollution permit: Minor NSR for gas-fired compressor	<p>30 days completeness review</p> <p>Approximate permit processing time from</p>	No public briefing, comment period, or hearing	No public briefing, comment period, or hearing	

<p>under 100 tpy regulated emissions.</p>	<p>stations if under 100 tpy regulated emissions and non-controversial</p> <p style="text-align: center;">Or</p> <p>If deemed controversial, subject to comment period, hearing, and longer processing time.</p>	<p>complete application to permit issued for non-controversial Minor NSR: 90 days.</p> <p style="text-align: center;">Or</p> <p>30 days completeness review.</p> <p>45 day comment period with hearing on 30th day.</p> <p>Approximate permit processing time from complete application to permit issued for controversial Minor NSR: 180 days.</p>	<p style="text-align: center;">Or</p> <p>If controversial, comment period and hearing required. At least 30 days notice of comment period and of hearing.</p>	<p style="text-align: center;">Or</p> <p>Public hearing on 30th day of 45 day public comment period (i.e., public comment 30 days, then hearing, then 15 additional days for comment).</p>	
<p>Intrastate pipeline for natural or manufactured gas: if 100 or more tpy regulated</p>	<p>Air pollution permit: Major NSR for gas-fired compressor stations if over 100 tpy regulated</p>	<p>30 days application completeness review.</p> <p>30 days after completeness review (initial letter of determination—ILOD) Public Notice of</p>	<p>Public will be provided with 30 days prior notice of:</p> <ul style="list-style-type: none"> • A public briefing by DEQ on the draft permit and supporting 	<p>Initial public briefing by applicant.</p> <p>DEQ advertises Public Notice of Application Submitted in at least one newspaper 30 days after ILOD. This also</p>	

<p>emissions.</p>	<p>emissions.</p> <p>Prevention of Significant Deterioration (PSD) permitting applies if facility to be sited in NAAQS attainment area. (more likely)</p> <p>Or</p> <p>Non-Attainment permitting if in NAAQS non-attainment area. (less likely)</p> <p>Major sources are also required to obtain a</p>	<p>Application Submitted published/disseminated.</p> <p>Public Notice of Application Submitted provides at least 30 days notice of DEQ Public Briefing.</p> <p>DEQ Public Briefing usually held one day before beginning of 45 day public comment period.</p> <p>Public hearing on 30th day of public comment period.</p> <p>Approximate permit processing time from complete application to permit issued for Major NSR permits: 365 days.</p>	<p>documentation for the proposed major stationary source.</p> <ul style="list-style-type: none"> • A comment period in which written comments concerning the draft permit and supporting documentation for the proposed major stationary source may be submitted to DEQ. • A public hearing during which written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration. 	<p>provides at least 30 days notice of DEQ Public Briefing and of Public Comment period (usually day after DEQ Public Briefing).</p> <p>Public hearing on 30th day of 45 day public comment period (i.e., public comment 30 days, then hearing, then 15 additional days for comment)</p>	
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	Title V operating permit. Application is submitted within 12 months of commencing operations and is subject to its own timelines and public notice and participation requirements .				
	VMRC permit required if project requires crossings (above or below) of waterways.	Permit for subaqueous disturbance (in VMRC jurisdiction waters). 60-90 days permit processing; plus public hearing required if VMRC receives objection.	Application advertised in paper of general circulation in area of proposed project.		
Intrastate natural gas storage	SCC certificate of public	<i>same as coal-fired power plant</i>	<i>same as coal-fired power plant</i>	<i>same as coal-fired power plant</i>	<i>same as coal-fired power plant</i>

facilities (e.g. Saltville storage facility)	necessity and convenience				
	DCR Erosion and Sediment Control permit for construction	<p>Virginia Stormwater Management Program (VSMP) <i>VSMP General Permit for Discharges of Stormwater for Construction Activities.</i></p> <p>Required if disturbing one acre or more (2,500 sq. ft. or more in Chesapeake Bay Preservation locality), including.</p> <p>Upon DCR's receipt of application and permit fee, DCR will mail notice of coverage.</p>	None	None	
	Possibly required: air pollution permit: Minor NSR	<p>30 days completeness review</p> <p>Approximate permit processing time from</p>	None	None	

	<p>for gas-fired compressor stations if under 100 tpy regulated emissions and non-controversial</p> <p>Or</p> <p>If deemed controversial, subject to comment period, hearing, and longer processing time.</p>	<p>complete application to permit issued for non-controversial Minor NSR permits: 90 days.</p> <p>Or</p> <p>30 days completeness review.</p> <p>45 day comment period with hearing on 30th day.</p> <p>Approximate permit processing time from complete application to permit issued for controversial Minor NSR: 180 days.</p>	<p>Or</p> <p>If controversial, may trigger comment and hearing as with major permit.</p>	<p>Or</p> <p>If controversial, may trigger comment and hearing as with major permit.</p>	
	<p>Possibly required: air pollution permit: Major NSR for gas-fired compressor stations if</p>	<p>30 days application completeness review.</p> <p>30 days after completeness review (initial letter of determination—ILOD) Public Notice of</p>	<p>Public will be provided with 30 days prior notice of:</p> <ul style="list-style-type: none"> • A public briefing by DEQ on the draft permit and supporting 	<p>Initial public briefing by applicant.</p> <p>DEQ advertises Public Notice of Application Submitted in at least one newspaper 30 days after ILOD. This also</p>	

	<p>over 100 tpy regulated emissions.</p> <p>Prevention of Significant Deterioration (PSD) permitting applies if facility to be sited in NAAQS attainment area. (more likely)</p> <p>Or</p> <p>Non-Attainment permitting if in NAAQS non-attainment area. (less likely)</p> <p>Major sources are</p>	<p>Application Submitted published/disseminated.</p> <p>Public Notice of Application Submitted provides at least 30 days notice of DEQ Public Briefing.</p> <p>DEQ Public Briefing usually held one day before beginning of 45 day public comment period.</p> <p>Public hearing on 30th day of public comment period.</p> <p>Approximate permit processing time from complete application to permit issued for Major NSR permit: 365 days.</p>	<p>documentation for the proposed major stationary source.</p> <ul style="list-style-type: none"> • A comment period in which written comments concerning the draft permit and supporting documentation for the proposed major stationary source may be submitted to DEQ. • A public hearing during which written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration. 	<p>provides at least 30 days notice of DEQ Public Briefing and of Public Comment period (usually day after DEQ Public Briefing).</p> <p>Public hearing on 30th day of 45 day public comment period (i.e., public comment 30 days, then hearing, then 15 additional days for comment)</p>	
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	<p>also required to obtain a Title V operating permit. Application is submitted within 12 months of commencing operations and is subject to its own timelines and public notice and participation requirements</p>				
	<p>VPDES General Permit for Storm Water Associated with Industrial Activity required if have discharge to state waters</p>	<p>Approximate permit processing times from complete application to permit issued for VPDES general permits generally 2 weeks to 2 months.</p>	<p>No public comment or hearings for general permits.</p>		

	<p>Or</p> <p>VPDES General Permit for Petroleum Discharges (if hydrostatic testing of lines warrant)</p> <p>Or</p> <p>Individual VPDES permit for industrial wastes if have discharge to state waters</p>	<p>If an individual VPDES permit for industrial wastes is required:</p> <p>14 days completeness review</p> <p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p> <p>120 days processing of complete application per Code § 62.1-44.16, but major dischargers require EPA review, which may add 90 days</p>	<p>If individual VPDES permit:</p> <p>Public notice (newspaper ad once a week for two weeks, mailing to interested parties, localities and riparian owners informed, we posting) for interested persons to comment and allow request for hearing.</p> <p>If hearing granted by Board (9VAC 25-230) advertise in general circulation newspaper in locality where activity is to occur at least 30 days before hearing.</p>	<p>If individual VPDES permit:</p> <p>30 day public comment period upon initial public notice of draft permit.</p> <p>If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing.)</p>	
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Appendix B

SCC And DEQ Public Hearing Requirements

Coal –fired power plants

1. SCC certificate

- a. SCC typically provides for a public hearing:
 - i. Public witnesses testify under oath and are subject to cross-examination by formal participants in the case and by the Hearing Examiner
 - ii. Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses
 - iii. Multiple public hearings may be held in affected locality and/or in the SCC's courtroom
- b. **TIMELINE: DICTATED BY THE PROCEDURAL DUE PROCESS REQUIREMENTS OF EACH CASE – PROCEDURAL DATES MAY BE MODIFIED IN RESPONSE TO FORMAL MOTIONS**

2. Air Pollution Permits

- a. Initial public briefing by applicant
- b. Public briefing usually held one day before beginning of 45 day public comment period
 - i. Held by DEQ on draft permit and supporting documentation for the proposed major stationary source
- c. Public hearing on 30th day of public comment period
 - i. During hearing, written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration
- d. **TIMELINE: 365 DAYS**

3. Individual VPDES permit

- a. Public hearing allowed
 - i. If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing)
- b. **TIMELINE: 120 DAYS FOR PROCESSING – MAJOR DISCHARGERS REQUIRE EPA REVIEW WHICH MAY ADD 90 DAYS**

4. VWPP

- a. Public hearing allowed

- i. If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing)
 - b. TIMELINE: 255 DAYS
- 5. DCR Erosion and Sediment Control permit**
 - a. Nothing
- 6. VMRC permit**
 - a. Public hearing allowed
 - b. TIMELINE: 60-90 DAYS PROCESSING PLUS 60 DAYS FOR PUBLIC HEARING
- 7. Ground Water Withdrawal Permit**
 - a. Public hearing allowed
 - i. If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing)
 - b. TIMELINE: 195 DAYS
- 8. Waste Program Permit**
 - a. Public hearing allowed with 30 day newspaper notice
 - b. TIMELINE: 345 DAYS

Wind farm

- 1. *SCC certificate*
 - a. SCC typically provides for a public hearing:
 - i. Public witnesses testify under oath and are subject to cross-examination by formal participants in the case and by the Hearing Examiner
 - ii. Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses
 - iii. Multiple public hearings may be held in affected locality and/or in the SCC's courtroom
 - b. TIMELINE: DICTATED BY THE PROCEDURAL DUE PROCESS REQUIREMENTS OF EACH CASE – PROCEDURAL DATES MAY BE MODIFIED IN RESPONSE TO FORMAL MOTIONS
- 2. DCR Erosion and Sediment Control permit**
 - a. Nothing

3. VMRC permit

- a. **TIMELINE: 60-90 DAYS PERMIT PROCESSING PLUS 60 DAYS FOR A PUBLIC HEARING**

Electric transmission lines in excess of 150kV

1. SCC certificate

- a. SCC must hold public hearing if requested by interested party:
- i. Public witnesses testify under oath and are subject to cross-examination by formal participants in the case and by the Hearing Examiner
 - ii. Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses
 - iii. Multiple public hearings may be held in affected locality and/or in the SCC's courtroom
- b. **TIMELINE: DICTATED BY THE PROCEDURAL DUE PROCESS REQUIREMENTS OF EACH CASE – PROCEDURAL DATES MAY BE MODIFIED IN RESPONSE TO FORMAL MOTIONS**

2. DCR Erosion and Sediment Control permit

- a. Nothing

3. VMRC permit

- a. **TIMELINE: 60-90 DAYS PERMIT PROCESSING PLUS 60 DAYS FOR A PUBLIC HEARING**

Intrastate pipeline for natural or manufactured gas

1. SCC certificate

- a. SCC must hold public hearing if requested by interested party:
- i. Public witnesses testify under oath and are subject to cross-examination by formal participants in the case and by the Hearing Examiner
 - ii. Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses
 - iii. Multiple public hearings may be held in affected locality and/or in the SCC's courtroom

- b. **TIMELINE: DICTATED BY THE PROCEDURAL DUE PROCESS REQUIREMENTS OF EACH CASE – PROCEDURAL DATES MAY BE MODIFIED IN RESPONSE TO FORMAL MOTIONS**

2. DCR Erosion and Sediment Control permit

- a. Nothing

Intrastate pipeline for natural or manufactured gas: if under 100 tpy

1. Air pollution permits

- a. No public briefing or hearing if non-controversial
- b. Public hearing on 30th day of 45 day public comment period (i.e., public comment 30 days, then hearing, then 15 additional days for comment) if controversial
- c. **TIMELINE: 90 DAYS IF UNDER 100 TPY REGULATED EMISSION AND NON-CONTROVERSIAL OR 180 DAYS IF CONTROVERSIAL**

Intrastate pipeline for natural or manufactured gas: if 100 or more tpy regulated emissions

1. Air pollution permits

- a. DEQ Public Briefing usually held one day before beginning of 45 day public comment period
 - i. Held by DEQ on the draft permit and supporting documentation for the proposed major stationary source
- b. Public hearing on 30th day of public comment period.
 - i. During hearing, written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration
- c. **TIMELINE: 365 DAYS**

2. VMRC permit

- a. **TIMELINE: 60-90 DAYS PERMIT PROCESSING PLUS 60 DAYS FOR A PUBLIC HEARING if VMRC receives objection**

Intrastate natural gas storage facilities

1. *SCC certificate*

- a. SCC must hold public hearing if requested by interested party:
 - i. Public witnesses testify under oath and are subject to cross-examination by formal participants in the case and by the Hearing Examiner
 - ii. Hearing Examiner rules on objections and admissibility of testimony and any other evidence proffered by public witnesses
 - iii. Multiple public hearings may be held in affected locality and/or in the SCC's courtroom
- b. **TIMELINE: DICTATED BY THE PROCEDURAL DUE PROCESS REQUIREMENTS OF EACH CASE – PROCEDURAL DATES MAY BE MODIFIED IN RESPONSE TO FORMAL MOTIONS**

2. **DCR Erosion and Sediment Control permit**

- a. Nothing

3. **Air pollution permits for under 100 tpy or controversial**

- a. Public hearing if controversial
- b. **TIMELINE: 90 DAYS IF UNDER 100 TPY REGULATED EMISSION AND NON-CONTROVERSIAL OR 180 DAYS IF CONTROVERSIAL**

4. **Air pollution permits for over 100 tpy**

- a. DEQ Public Briefing usually held one day before beginning of 45 day public comment period
 - i. Held by DEQ on the draft permit and supporting documentation for the proposed major stationary source
- b. Public hearing on 30th day of public comment period.
 - i. During hearing, which written and oral comments concerning the draft permit and supporting documentation for the proposed major stationary source will be taken by DEQ for consideration
- c. **TIMELINE: 365 DAYS**

5. **VPDES General Permit for storm water**

- a. No hearings for general permits
- b. **TIMELINE: 2 WEEKS – 2 MONTHS**

6. **Individual VPDES permit for industrial wastes**

- a. Public hearing allowed
 - i. If hearing granted by Board, comment period extended by 45 days (30 days between advertisement of hearing and hearing plus 15 days for comment after hearing)
- b. **TIMELINE: 120 DAYS FOR PROFESSING – MAJOR DISCHARGERS REQUIRE EPA REVIEW WHICH MAY ADD 90 DAYS**

1
2 **Appendix C**
3 **Coordinated SCC and DEQ Review Process**

4 An applicant that must obtain (i) a certificate of public convenience and necessity from
5 the Commission for any electric generating facility, electric transmission line, or natural
6 or manufactured gas pipeline or storage facility, and (ii) an environmental permit that is
7 subject to issuance by any agency or board within the Secretariat of Natural Resources,
8 may request a pre-application planning and review process. In any such request to the
9 Commission or Secretariat of Natural Resources, the applicant shall identify the proposed
10 energy facility for which it requests the pre-application planning and review process. The
11 Commission, the Department of Environmental Quality, the Marine Resources
12 Commission, the Department of Game and Inland Fisheries, the Department of Historic
13 Resources, the Department of Conservation and Recreation, and other appropriate
14 agencies of the Commonwealth shall participate in the pre-application planning and
15 review process. Participation in such process shall not limit the authority otherwise
16 provided by law to the Commission or other agencies or boards of the Commonwealth.
17 The Commission and other participating agencies of the Commonwealth may invite
18 federal and local governmental entities charged by law with responsibility for issuing
19 permits or approvals to participate in the pre-application planning and review process.
20 Through the pre-application planning and review process, the applicant, the Commission,
21 and other agencies or boards shall identify the potential impacts and approvals that may
22 be required and develop a plan that will provide for an efficient and coordinated review
23 of the proposed energy facility. Such plan shall include (1) a list of the permits or other
24 approvals likely to be required based on the information available, (2) a specific plan and
25 preliminary schedule for the different reviews, (3) a plan for coordinating those reviews
26 and the related public comment processes, and (4) designation of points of contact, either
27 within each agency or for the Commonwealth as a whole, to facilitate this coordination.
28 Such plan shall be made readily available to the public and shall be maintained on a
29 dedicated website to provide current information on the status of each component of the
30 plan and each approval process including opportunities for public comment.

