

# **ANNUAL REPORT**

## **State Agency Farm Land and Forest Land Preservation Activities**

A Status Report to the Chairs of the  
Senate Committee on Agriculture, Conservation and Natural Resources,  
and the  
House Committee on Agriculture, Chesapeake and Natural Resources

By:

Todd P. Haymore  
Secretary of Agriculture and Forestry

December 1, 2011

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## ***Introduction***

Section 3.2-206 of the Code of Virginia states:

“The Secretary of Agriculture and Forestry shall submit a written report by December 1 of each year to the chairmen of the House Committee on Agriculture Chesapeake and Natural Resources, and the Senate Committee on Agriculture, Conservation and Natural Resources on the impacts of state agency actions on the conversion of farm and forest lands.”

The statute requires that the following four named agencies contribute to this report:

1. Department of Transportation
2. Department of Conservation and Recreation
3. State Corporation Commission; and
4. Department of Environmental Quality

Below is a synopsis of information supplied by each of these agencies.

### ***Department of Transportation***

The Department of Transportation (VDOT) reports that from July 1, 2010 through June 30, 2011 VDOT purchased 262.59 acres to be used for right of way. Construction projects on this property will begin six months to one year after purchase.

During FY 2011, VDOT estimates that 15.69 acres of farmland and 33.19 acres of forestland will be impacted by future construction projects. Since these estimates are determined during early environmental studies, the conversion may not actually take place for years. “These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.”

### ***Department of Conservation and Recreation***

The Department of Conservation and Recreation (DCR) strives to minimize impacts to farm and forest land on its properties. DCR reports that some impacts are unavoidable, however, since DCR is in the midst of the largest state park capital improvement in its history. Conversion is minimized because DCR is taking recreational use land and merely changing the type of recreational use. Of special note, DCR reports that during FY 2011, thirty-six miles of abandoned railroad bed was converted to recreational use at High Bridge State Park.

DCR’s overarching policy is directed toward having the development, whether it be campsites, visitor centers, or parking lots, “lay lightly on the land”. Thirty-nine projects were completed between July 1, 2010 and June 30, 2011. A total of 594.5 acres were converted of which none were farmland; 125 acres were forest land; and 469.5 acres (excluding farm and forest lands) were classified as other. It is a priority of DCR to conserve open space and minimize intrusion by capital improvements.

### *State Corporation Commission*

The State Corporation Commission's (SCC) farm and forest lands protection plan was unchanged during fiscal year 2011. The Commission anticipates no capital projects that would have an impact on the conversion of farm and forested lands. The SCC approves the construction of utility facilities and considers the impact of proposed facilities on farm and forested lands and their conversion in its analysis of environmental impacts and requires applicants to submit information on the impact to agricultural and forest resources.

The SCC executed a Memorandum of Agreement (MOA) with the Department of Environmental Quality (DEQ) to ensure the coordination of reviews of environmental impacts of proposed electric generating plants and associated facilities. A second MOA with DEQ is in place to ensure that consultation by DEQ on wetland impacts occurs prior to siting determinations by the SCC for facilities, activities and public service companies. The Commission's filing requirements further require applicants seeking authority to construct and operate electric generating facilities to submit, among other things, information on the impact to agricultural and forest resources.

### *Department of Environmental Quality*

DEQ "strives to ensure that any impacts on the preservation of farm and forest lands resulting from DEQ's actions are necessary to protect and improve the public health, safety and welfare." If DEQ believes that a regulation may potentially impact farm and forest land preservation, the agency ensures that a representative of the farming or forestry community is given an opportunity to serve as a member of any advisory panel established to assist in the development of the proposal. Additionally, as the agency coordinates the review of environmental impacts resulting from state construction projects, the responsible agencies are asked to identify any such impacts.

During this period, DEQ had seven comment periods on notices of intent to adopt, amend, or repeal a regulation and nine comment periods on proposed adoption, amendment, or repeal of regulatory text. DEQ also conducted one public comment period for fast-track rulemaking. Four comments were received regarding the impacts to farm or forest lands during the regulatory comment periods.

- DEQ issued three Notices of Intended Regulatory Action (NOIRA) and issued one notice of public comment period on a proposed regulation. Comments related to farm and forest land preservation were received during the NOIRA comment period relating to the Small Renewable Wind Energy Project Regulations (9VAC15-40) and the comment period on a proposal related to Small Renewable Energy Projects (Combustion) Permit by Rule (9VAC15-70).

- The State Air Pollution Control Board issued three notices of public comment on a proposal. Comments relative to farm and forest land preservation were received relating to 9 VAC5-520 Biomass Energy Generator General Permit Regulation. Representatives of farming, agricultural, and forestry organizations were included in the membership of the advisory panel. Commenters supported the approach of using a pilot test facility and the flexibility it provides the regulated community.
- The Virginia Waste Management Board did not have any comment periods related to notices of intended regulatory rulemaking or regulatory proposals.
- The State Water Control Board (SWCB) issued four NOIRA's, five notices of public comment period on a proposal and one comment period on a fast-track rulemaking. Comments relative to farm and forest land preservation were received during the comment periods for four NOIRA's and also during the comment period for 9 VAC 25-32 Virginia Pollution Abatement. This regulation deals with the regulation of biosolids. Comments were received from a number of farmers as well as biosolids land application contractors who felt that certain proposed changes to the regulations would have an impact on agriculture.

Last year DEQ reported receiving comments on a NOIRA for the Plasticulture Operations Regulation (9VAC25-870). This regulatory action would have established standards concerning the management of runoff from plasticulture operations. Since issuing the NOIRA, growers on the Eastern Shore and the Eastern Shore Soil and Water Conservation District have signed a MOA that addresses many of the issues raised by the SWCB. The SWCB also heard testimony from representatives of the agricultural community supporting the MOA. In light of this, DEQ withdrew the NOIRA.

# APPENDIX



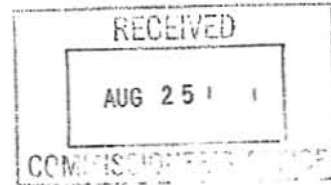
## COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219-2000

Gregory A. Whirley  
Commissioner

August 22, 2011

Mr. Matthew J. Lohr, Commissioner  
Virginia Department of Agriculture and Consumer Services  
P.O. Box 1163  
Richmond, Virginia 23218



Dear Mr. Lohr:

Attached is the Virginia Department of Transportation's current program or plan for implementing policies for the protection of forest and farmland, in accordance with § 3.2-206 of the Code of Virginia. Also included with our plan is the analysis of the impacts of VDOT projects on these lands from July 1, 2010 to June 30, 2011. If you have any questions, please contact Chris Adkins at (804) 786-5360. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen J. Long".

Stephen J. Long  
State Environmental Administrator

Attachment

**VDOT's Plan/Program Addressing  
Code of Virginia Section 3.2-206**

- Estimate the number of acres of farmlands impacted for each VDOT project. Count all farmlands regardless of whether the property has one of the listed characteristics.
- Estimate the number of acres of forestlands impacted for each VDOT project. Count all forestlands regardless of whether the property has one of the listed characteristics.
- Submit the plan annually by September 1.

**Analysis of the Impact of VDOT Projects**

**Total land acreage converted to other use:** 262.59  
This is the amount of right of way purchased by VDOT in FY11. Construction begins approximately 6 months to 1 year after purchase.

**Total farmland acreage planned to be converted:** 15.69  
This is the amount of farmland estimated in FY11 to be impacted by future construction projects. Since the estimates are determined during early environmental studies, the conversion may not actually take place for years. These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.

**Total forestland acreage planned to be converted:** 33.19  
This is the amount of forestland estimated in FY11 to be impacted by future construction projects. Since the estimates are determined during early environmental studies, the conversion may not actually take place for years. These estimates are preliminary and may decrease as the project develops and avoidance measures are pursued.

Douglas W. Domenech  
Secretary of Natural Resources



David A. Johnson  
Director

**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF CONSERVATION AND RECREATION**

203 Governor Street  
Richmond, Virginia 23219-2010  
(804) 786-1712

September 21, 2011

Commissioner Matt Lohr  
Virginia Department of Agriculture and Consumer Services  
Commissioner's Office  
102 Governor Street  
Richmond, Virginia 23219

Subj: FY2011 Farm and Forest Land Protection Status Report

Dear Commissioner Lohr:

Attached is a copy of the Department of Conservation and Recreation's Annual Farm and Forest Land Protection Report that includes an analysis of the impact Agency capital projects had on open space in FY11. The Department always strives to minimize impacts to farm and forest land on its properties. Some impacts are unavoidable, however, since DCR is in the midst of the largest state park capital improvement program in its history. Conversion is minimized because we are taking recreational use land and merely changing the type of recreational use. Of special note in FY11 was the conversion of 36 miles of abandoned railroad bed to recreational use at High Bridge State Park. In FY11, 4 acres were affected by our capital improvement program.

If you have any questions regarding our submittal, please do not hesitate to contact me. I may be reached at (804) 786-2291 or at [david.dowling@dcr.virginia.gov](mailto:david.dowling@dcr.virginia.gov).

Sincerely,

A handwritten signature in cursive script that reads "David C. Dowling".

David C. Dowling  
Policy and Planning Director

Attachment

Cc: David A. Johnson, DCR Director  
Rebecca S. Askew, VDACS Senior Policy Analyst

*State Parks • Stormwater Management • Outdoor Recreation Planning  
Natural Heritage • Dam Safety and Floodplain Management • Land Conservation*



Analysis of the Impact of Agency Projects for FY11:

Number of projects completed between July 1, 2010 and June 30, 2011: 39

Total land acreage converted to other use: 594.5 acres

Total farm land acreage converted: 0 acres

Total forest land acreage converted: 125 acres

Total acreage of other lands converted (excluding farm and forest): 469.5 acres

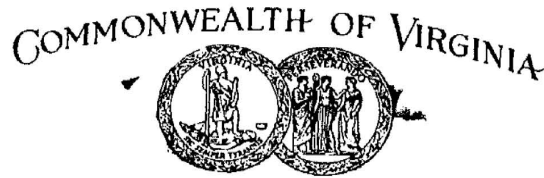
Park	Project Description	Land Converted to Other Use	Farm Land Converted	Forest Land Converted	Other Acreage Converted
Douthat	Construct cabins	10	0	10	0
First Landing	Improve visitor center	0	0	0	0
Mason Neck	Construct Office Complex	0.5	0	0	0.5
Natural Tunnel	Construct cabins	30	0	30	0
Natural Tunnel	Construct campground and bathhouse	25	0	25	0
James River	Construct equestrian camping area bathhouse	10	0	10	0
Fairy Stone	Construct Equestrian camping area and horse support facility	10	0	10	0
James River	Construct visitor center and office complex	4	0	0	4
First Landing	Cape Henry Trail Improvements	2	0	0	2
Caledon	Trail Improvements and Accessibility	1	0	0	1
Westmoreland	Trail Improvements and Development	2	0	0	2
Pocahontas	Powhatan Trail Extension	2	0	2	0
Douthat	Heron Run and Lakeside Trail Improvements	3	0	3	0
Ocooneechee	Trail Improvements	2	0	0	2
Bear Creek	Lakeside Trail Improvements	2	0	2	0
Leesylvania	Potomac Heritage National Scenic Trail	3	0	0	3
Southwest Virginia Museum	Accessible Support	0	0	0	0
Westmoreland	General Trail Improvements	3	0	3	0
James River	Running Creek Trail Improvements	2	0	2	0
Natural Tunnel	General Trail Improvements	3	0	3	0
Fairy Stone	Multi-Use Trail	2	0	2	0
Holiday Lake	Construct campground	10	0	10	0
Staunton River	Construct equestrian camping area	10	0	10	0
Westmoreland	Construct office complex, and visitor & birding center	2	0	0	2
Sky Meadows	Construct picnic area	0	0	0	0
Sky Meadows	Expand campground and AT shelters	0	0	0	0

Park	Project Description	Land Converted to Other Use	Farm Land Converted	Forest Land Converted	Other Acreage Converted
Staunton River Battlefield	Improve Utilities	0	0	0	0
High Bridge	Development of High Bridge State Park	450	0	0	450
Bear Creek	Repair HVAC Beach Bathhouse	0	0	0	0
Bear Creek	Repair HVAC, Residence 1	0	0	0	0
Douthat	Repair Sewage System, Cabin Area	2	0	2	0
Lake Anna	Reroof Snack Bar Building	0	0	0	0
Leesylvania	Repair Freestone Restroom Sewage System	1	0	0	1
Mason Neck	Replace Picnic Area Restroom & Well House Roofs	0	0	0	0
Shenandoah River	Repair Roofs, Four Buildings	0	0	0	0
Smith Mountain	Repair Water System	0	0	0	0
Staunton River	Replace Pool Bathhouse Drainfield	2	0	0	2
Southwest Virginia Museum	Repoint Stonework	0	0	0	0
Twin Lakes	Install Sewer, Camphost site	1	0	1	0
<b>Totals</b>		<b>594.5</b>	<b>0</b>	<b>125</b>	<b>469.5</b>

Describe alternatives and mitigating measures that were considered to reduce the total acreage of farm and forest lands converted during the period of July 1 through June 30:

The Department of Conservation and Recreation construction on park properties is governed by a Master Planning process that is used to develop the properties in a manner that will best blend the project with the natural landscape of the property. The Department of Conservation and Recreation is highly sensitive to the conversion of open space, including the conversion of farm and forestry acreage. Every project initiated by the Department undergoes a strict in-house review including the review of the siting of the development. Our overarching policy is directed toward having the development, whether it be campsites, visitor centers, or parking lots, "lay lightly on the land." The Agency works with designers and contractors closely to insure that land impacts are minimized. Conserving open space and minimizing the intrusion by capital improvements remains a priority with the Department of Conservation and Recreation.

MARK C. CHRISTIE  
COMMISSIONER  
  
JAMES C. DIMITRI  
COMMISSIONER  
  
JUDITH WILLIAMS JAGDMANN  
COMMISSIONER



JOEL H. PECK  
CLERK OF THE COMMISSION  
P.O. BOX 1197  
RICHMOND, VIRGINIA 23218-1197

## STATE CORPORATION COMMISSION

September 9, 2011

The Honorable Matt Lohr  
Commissioner  
Virginia Department of Agriculture and Consumer Services  
P.O. Box 1163  
Richmond, Virginia 23218

Dear Commissioner Lohr:

On behalf of the State Corporation Commission ("Commission"), I am providing a response to your annual request for information pursuant to § 3.2-206 of the Code of Virginia ("Code") regarding the impact of the Commission's projects and regulations on the conversion of farm and forested lands. The discussion herein is substantively the same as the one provided in the Commission's 2010 response.

Section 3.2-206 of the Code requires "an analysis of the impact that the [Commission's] regulations and projects have on the conversion of farm and forest lands." With respect to projects, the Commission anticipates no capital projects that would have an impact on the conversion of farm and forest lands. The remainder of this letter addresses Commission regulations that may have such an impact.

For example, the Commission approves the construction of utility facilities. Commission approval is in addition to the environmental and land-use approvals required for any such construction. The Commission considers the impact of proposed facilities on farm and forest lands and their conversion in its analysis of environmental impacts required by various provisions of the Code, including §§ 56-46.1, 56-259, 56-265.2:1, and 56-580. The Commission regularly requests the Department of Environmental Quality ("DEQ") to coordinate a review of utility applications and to gather information from all state agencies with environmental responsibilities.

In addition, pursuant to §§ 10.1-1186.2:1 B and 56-46.1 G of the Code, the DEQ and the Commission have executed a Memorandum of Agreement regarding coordination of reviews of the environmental impacts of proposed electric generating plants and associated facilities. *See In the matter of receiving comments on a draft memorandum of agreement between the Department of Environmental Quality and the State Corporation Commission*, Case No. PUE-2002-00315,

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Order Distributing Memorandum of Agreement (Aug. 14, 2002). When the Commission receives an application for certification of an electric generating facility, such Memorandum of Agreement ensures the coordination of reviews of environmental impacts.

Virginia statutes, however, limit the authority of the Commission over environmental and other matters. Pursuant to § 56-46.1 A of the Code, whenever the Commission is required to approve the construction of any electrical utility facility:

In order to avoid duplication of governmental activities, any valid permit or approval required for an electric generating plant and associated facilities issued or granted by a federal, state or local governmental entity charged by law with responsibility for issuing permits or approvals regulating environmental impact and mitigation of adverse environmental impact or for other specific public interest issues such as building codes, transportation plans, and public safety, whether such permit or approval is granted prior to or after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were considered by, the governmental entity in issuing such permit or approval, and the Commission shall impose no additional conditions with respect to such matters.

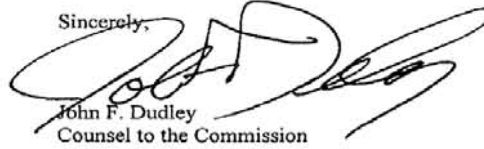
Furthermore, pursuant to § 62.1-44.15:5 D 2 of the Code, the DEQ (on behalf of the State Water Control Board) and the Commission have executed a second Memorandum of Agreement to ensure that consultation by the DEQ on wetland impacts occurs prior to siting determinations by the Commission for facilities and activities of utilities and public service companies. *See In the matter of receiving comments on a draft memorandum of agreement between the State Water Control Board and the State Corporation Commission, Case No. PUE-2003-00114, Order Distributing Memorandum of Agreement (July 30, 2003).* When the Commission receives an application for certification of facilities under §§ 56-46.1, 56-265.2, 56-265.2:1, or 56-580 of the Code, the DEQ prepares a wetland impacts consultation including a summary of findings and any recommendations for the Commission's consideration.

Finally, the Commission's filing requirements for applicants seeking authority to construct and operate electric generating facilities are set forth at 20 VAC 5-302-20. These filing

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requirements direct the applicant to submit, among other things, information on the impact to agricultural and forest resources. *See, e.g.*, 20 VAC 5-302-20 12.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Dudley". The signature is stylized and cursive, with a large initial "J" and "D".

John F. Dudley  
Counsel to the Commission

cc: Cody D. Walker, Assistant Director, Division of Energy Regulation  
Angela P. Bowser, Assistant Director, Division of Information Resources



COMMONWEALTH of VIRGINIA

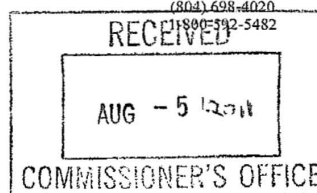
DEPARTMENT OF ENVIRONMENTAL QUALITY
Street address: 629 East Main Street, Richmond, Virginia 23219
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4020

1800-592-5482



MEMORANDUM

TO: The Honorable Matt Lohr, Commissioner
Department of Agriculture and Consumer Services
FROM: David K. Paylor
DATE: August 1, 2011
SUBJECT: Preservation of Farm and Forest Lands - Report on Impacts from the Department of Environmental Quality's Programs pursuant to § 3.2-206 of the Code of Virginia

The Department of Environmental Quality (DEQ) strives to ensure that any impacts on the preservation of farm and forest lands resulting from the DEQ's actions are necessary to protect and improve the environment for the well being of all Virginians. The primary goal of the DEQ as it develops regulations is to focus on environmental results, to consider both the environmental benefits and the impacts to those we regulate, and to prioritize our efforts and resources based on potential impact on the environment. Included in each notice of intent or notice of a comment period on a proposal is a specific request for comment on the impacts of the regulation on farm and forest land preservation. If the DEQ believes that a regulation may impact farm and forest land preservation, the DEQ will ensure that a representative of farming and/or forestry is given an opportunity to be a member of any advisory panel established to assist in the development of a proposal. DEQ also coordinates the review of environmental impacts resulting from state construction projects and also coordinates the review of environmental impacts of proposed electric generating plants and associated facilities submitted to the State Corporation Commission. Responsible agencies are asked to identify any such impacts. In addition, the Departments of Agriculture and Consumer Services (VDACS) and of Forestry (DOF) are asked to review those evaluations and make recommendations on how such impacts can be avoided or minimized.

From July 1, 2010, to June 30, 2011, the DEQ (and its regulatory boards) had 7 comment periods on notices of intent to adopt, amend or repeal a regulation and 9 comment periods on proposed adoption, amendment or repeal of regulatory text. In addition, there was 1 public comment period for a fast-track rulemaking. Comments were received regarding impacts to farm or forest lands during 4 of the regulatory comment periods. The specifics are listed below:

- The DEQ issued 3 notices of intent of regulatory rulemaking and issued 1 notice of a public comment period on a proposed regulation. Comments relative to farm and forest land preservation were received during 1 notice of intent comment period and during 1 comment period on a proposal.

One comment was received during the notice of intent for the Small Renewable Energy Projects (Combustion) Permit by Rule (9VAC15-70) comment period. A commenter stated that “[t]he competitive advantage of small scale renewable energy projects will increase the demand for biomass production throughout the Commonwealth. . . . This will lead to improved use of farm and forest and protection from conversion to other less desirable uses.” Representatives of the Department of Forestry and Virginia Department of Agriculture and Consumer Services participated in the Regulatory Advisory Panel for these regulations and this comment was provided to the group for inclusion in its deliberations.

Comments were also received during the comment period for the proposed Small Renewable Wind Energy Project Regulations (9VAC15-40) concerning the deforestation of mountain ridges for wind project construction. One commenter stated that these projects were not significantly environmentally friendly due to the loss of forest lands. Other commenters were concerned with forest defragmentation occurring on ridge tops as a result of wind project development and the removal of forested habitats. Forestry issues were addressed and resolved through consensus of the members of the Regulatory Advisory Panel (RAP), consistent with legal advice from the agency’s counsel concerning the scope of the DEQ’s authority to require mitigation for resources that are not “wildlife” or “historic resources.” The RAP included a representative of the Department of Forestry.

- The State Air Pollution Control Board issued 3 notices of a public comment period on a proposal. Comments relative to farm and forest land preservation were received on the Biomass Energy Generator General Permit Regulation (9VAC5-520). During the past year the Air Pollution Control Board worked with the regulated community and interested parties to develop the Biomass Energy Generator General Permit (9VAC5-520). Representatives of farming, agricultural, and forestry organizations were included in the membership of the advisory panel. Comments on the proposed regulation were received from representatives of farming, agricultural, and forestry organizations. Commenters supported the approach of using a pilot test facility, and the flexibility it provides to the regulated community. One commenter stated that this regulatory action will further encourage the generation of alternative energy from agricultural and forest products. In conjunction with this general permit, the agency has provided outreach materials on biomass energy projects on the agency’s website to assist the regulated community with understanding the regulatory requirements.
- The Virginia Waste Management Board did not have any comment periods related to notices of intent of regulatory rulemaking or regulatory proposals.
- The State Water Control Board issued 4 notices of intent of regulatory rulemaking, 5 notices of a public comment period on a proposal, and 1 comment period on a fast-track rulemaking.

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Comments relative to farm and forest land preservation were received during 1 proposed comment period.

DEQ accepted public comments on proposed Virginia Pollution Abatement (VPA) Regulations (9VAC25-32) that deal with the regulation of Biosolids. DEQ staff received comments from a number of farmers as well as biosolids land application contractors who felt that certain proposed changes to the regulations would have an impact on agriculture. A summary of the comments are as follows:

1) The proposed regulations specify that landowners and residents with property adjacent to biosolids land application sites have the option to request that the setback distance from residences and property lines be doubled, and that DEQ would grant this extension upon request. Some landowners commented that this would have the effect of preventing more land from receiving biosolids. These commenters felt that obtaining biosolids as a free nutrient source on as many acres as possible helps them to make their farming operations more profitable.

2) One land application contractor commented that the proposed deadline to submit a VPA application to replace currently administratively continued Department of Health biosolids permits should be extended past the proposed date of December 31, 2012. This commenter stated that he might not be able to submit a VPA application by this date, and this may result in farmers losing the ability to receive the agronomic benefit of biosolids.

3) The wastewater industry commented that the proposed ceiling limit concentration for molybdenum of 40 mg/kg to grazed lands would limit the amount of biosolids available to be land applied, and that any reduction in the level should not be adopted until EPA changed the federal rule on this limit.

DEQ is considering the comments received and will be providing responses to the issues presented when the agency presents the final regulatory package to the State Water Control Board in September, 2011. Further information on this regulatory action will be provided in next year's report.

DEQ also accepted public comments during both the notice of intended regulatory action and notice of public comment stages for the VPDES General Permit for Discharges Resulting from the Application of Pesticides to Surface Waters. While comments were received from the Department of Agriculture and Consumer Services and the Department of Forestry, among others; the comments were relative to the need of the regulation and not on farm and forest land preservation.

Last year the agency reported receiving comments on a notice of intended regulatory action for the Plasticulture Operations Regulation (9VAC25-870). This regulatory action would adopt a regulation to establish standards concerning the management of runoff from plasticulture operations. Since issuing the notice of intended regulatory action, each of the growers on the eastern shore and the Eastern Shore Soil and Water Conservation District have signed a



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Memorandum of Agreement (MOA) that addresses many of the issues raised by the State Water Control Board. Additionally, the State Water Control Board heard testimony from representatives of the agricultural community in support of the MOA. Since this MOA has been signed, the State Water Control Board decided to withdraw the notice of intended regulatory action on regulating large scale agriculture on the Eastern Shore.

Last year's report indicated the agency received comments on the Virginia Pollution Abatement (VPA) Permit Regulation for Poultry Waste Management (9 VAC 25-630). This regulatory action would reissue the general permit for poultry feeding operations which confine 200 or more animal units (20,000 chickens or 11,000 turkeys). Comments on the proposal were received from the agricultural community concerning the soil test recommendation option for land application found in the technical requirements for end-users and the requirements for certified nutrient management planners to write the plans along with the Department of Conservation and Recreation (DCR) approval. In response to comments, the regulations were revised to retain the soil test recommendation option. The regulations were not changed to remove references to requirements for certified nutrient management planners to write the plans and for the plans to be approved by the DCR. The final regulation retains the requirement for certified nutrient management planners to write the plans because the DCR's regulations specify that a "nutrient management plan" means a plan prepared by a Virginia certified nutrient management planner. If this language was removed, it could be interpreted by the permittee that the requirement no longer exists and they no longer must comply with the requirement. Since the requirement still exists, it is retained in the regulation to provide clear and concise language regarding these requirements. This requirement is also consistent with other DEQ regulations which require that nutrient management plans be written by certified planners.

Previously DEQ reported receiving comments during the notice of intended regulatory action for the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Concentrated Animal Feeding Operations (9 VAC 25-191) to reissue and amend the general permit. The DEQ is currently working with a regulatory advisory panel, whose membership includes representatives of the agricultural community, to discuss permitting of concentrated animal feeding operations. EPA has adopted specific requirements concerning public comment for concentrated animal feeding operations which has complicated the approach used to permit these facilities. DEQ continues to work with the regulatory advisory panel to discuss permitting these facilities. Additional information will be provided in next year's report on the progress of this regulatory action.

#### Review of major state projects

During the past fiscal year (7/1/10 to 6/30/11), the Office of Environmental Impact Review completed the review of 75 Environmental Impact Reports (EIR) for major state projects. The EIRs for these projects were coordinated with the Department of Forestry (DOF) and the Department of Agriculture and Consumer Services (VDACS). In most cases, VDACS and DOF indicated that farm and forest lands would not be adversely affected by these state projects except in the case of the Department of Military Affairs' (DMA) proposal to construct a maneuver training center at Fort Pickett (DEQ-11-059S). The document indicated that operations at Fort Pickett will include forest resource management, including timber harvesting and prescribed burning. The document also

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indicated that construction projects would include tree removal. For example, the development of the sports complex, a 38-acre site, would require tree removal for construction of the facilities. The Department of Forestry (DOF) finds that this project will have a significant impact to the overall forest resources of the Commonwealth. According to DOF, a total of 119 acres of forest land will be cleared or affected by this project. Therefore, DOF recommended that DMA mitigate the loss of the forest land. This mitigation could be in the form of reforestation open lands, improving the growth of existing forest lands, or conserving lands through conservation easements so they will remain in forest land in perpetuity.

In the case of Virginia Tech's proposal to construct a National Institute of Aerospace Facility in the City of Hampton (DEQ-10-118S), the DOF finds that this project will have limited impact to the overall forest resources of the Commonwealth, specifically the loss of tree canopy and the associated benefits within the urbanizing area. Therefore, DOF recommended that the proposed undisturbed green space surrounding the facility should remain on the site to provide aesthetic and environmental benefits, as well as reducing future open space maintenance costs. DOF further recommended that Virginia Tech consider possible mitigation options such as planting pine and/or hardwood seedlings on this site or in appropriate areas throughout the campus that are one-half acre in size or larger.

The EIR for Virginia Tech's proposal for the construction of Phase IV of the Oak Lane Community on its campus states that the majority of the proposed development would be constructed on land that is classified as partially hydric soil and as either prime farmland or farmland of statewide importance. However, in this case VDACS did not respond to DEQ's request to comment.

DEQ's responses contain all recommendations submitted by DOF and VDACS to protect farm and forest lands. The Secretary of Administration approves state projects contingent on strict adherence to DEQ's recommendations. In general, when applicable, the DEQ's responses to proponent agencies include recommendations for the protection of existing trees to provide aesthetic and environmental benefits when applicable.

#### Review of environmental impacts of proposed electric generating plants and associated facilities

Pursuant to Virginia Code 10.1-1186.2:1 B and 56-46.1 G, DEQ and the State Corporation Commission (SCC) entered into a memorandum of agreement regarding coordination of the reviews of environmental impacts of proposed electric generating plants and associated facilities. DEQ includes DOF and VDACS in the review of SCC applications. DEQ coordinated the reviews of 7 applications between 7/1/10 through 6/30/11. DOF found 1 of the 7 applications would have significant impacts on forest lands namely the application of PATH Allegheny Virginia Transmission Corporation for a Certificate of Public Convenience and Necessity Authorizing Construction and Operation of Transmission Facilities: 765 kV Transmission Line in Frederick, Clarke and Loudoun Counties, Virginia, State Corporation Commission, Case No. PUE-2010-00115 (reviewed under DEQ # 10-146S).

DOF stated that forests provide many benefits and values that include timber for wood product and associated economic activity, carbon sequestration and storage, watershed protection, air quality improvement, wildlife habitat, and scenic, recreational and quality of life values. Areas

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within the right-of-way will be converted from forest to non-forest, which will result in immediate and permanent reduction of these benefits. DOF provided recommendations on this project, including potential mitigation measures. DEQ's report to the SCC recommends that the applicant coordinate with DOF regarding its recommendations on the project.