

**ANNUAL REPORT ON
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**

**Todd P. Haymore
Secretary of Agriculture and Forestry**

December 1, 2015

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INTRODUCTION

Section 3.2-206 of the Code of Virginia requires that the Secretary of Agriculture and Forestry 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. This section requires that the following four agencies contribute to this report: (i) Department of Transportation, (ii) Department of Conservation and Recreation, (iii) State Corporation Commission, and (iv) Department of Environmental Quality.

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

DEPARTMENT OF TRANSPORTATION

The Department of Transportation (VDOT) reports that, from July 1, 2014, through June 30, 2015, VDOT purchased 374.8 acres to be used for right-of-way. Construction projects on this property will begin six months to one year after purchase.

In fiscal year (FY) 2015, VDOT estimated that 53.85 acres of farm land and 98.38 acres of forest land 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 projects develop and avoidance measures are pursued.

DEPARTMENT OF CONSERVATION AND RECREATION

The Department of Conservation and Recreation (DCR) reports that, during FY 2015, it completed 13 projects. None of these projects resulted in the conversion of farm or forest land.

As a conservation agency, DCR strives to minimize impacts to farm and forest lands on its properties. DCR's overarching policy is directed towards ensuring its development projects have minimal impact on the land.

STATE CORPORATION COMMISSION

The State Corporation Commission (SCC) anticipates no capital projects that would have an impact on the conversion of farm and forest lands.

SCC approves the construction of utility facilities and considers the impact of proposed facilities on farm and forest lands and their conversion in its analysis of environmental impacts. SCC 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. Additionally, SCC executed a Memorandum of Agreement (MOA) with DEQ regarding 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 SCC for facilities and

activities of utilities and public service companies. SCC's filing requirements further require applicants seeking authority to construct and operate electric generating facilities to submit 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 environment for the well being of all Virginians.” If DEQ believes that a regulation may potentially impact farm and forest lands 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 FY 2015, DEQ and its regulatory boards had three public comment periods on notices of intent to adopt, amend, or repeal a regulation and five comment periods on the proposed adoption, amendment, or repeal of regulatory text. DEQ also conducted one public comment period for fast-track rulemaking.

During FY 2015, DEQ accepted public comment on 2 VAC 25-900 *et seq.*, a proposed regulation titled “Certification of Nonpoint Source Nutrient Credits”. Under this regulation, a farmer may voluntarily choose to submit an application in order to certify any nonpoint source nitrogen and phosphorus nutrient credits that he may generate. These certified nonpoint source nutrient credits will be placed on a registry of credits and become part of an enforceable market-based trading program that will involve the exchange of pollution allocations between sources. This trading program is intended, in part, to provide an incentive for farmers to reduce their nutrient loads to surface waters. As part of the development process for this regulation, DEQ convened a regulatory advisory panel that included representatives of the agricultural community. DEQ received a comment during the regulatory comment period on the proposed adoption of this regulation that requested agroforestry practices be included in the approved land conversion options.

Review of Major State Projects

During FY 2015, DEQ’s Office of Environmental Impact Review reviewed 56 environmental impact reports (EIR) for major state projects. DEQ coordinates EIRs for these projects with the Virginia Department of Agriculture and Consumer Services (VDACS) and the Virginia Department of Forestry (DOF). VDACS did not comment on these projects. DOF found that forest land would not be adversely impacted by these projects.

Review of proposed electric generating plants and associated facilities

DEQ and SCC entered into a MOA 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 six SCC

applications during FY 2015. DOF found that one application would have significant impacts on forest land and recommended an alternative route that would cause fewer impacts on forest lands.

Federal Agency Projects

DEQ coordinated the review of 119 federal agency projects (including private development requiring federal approvals) during FY 2015. Of that number, DOF indicated that eight could have adverse impacts, some significant, on forestry resources.

DOF requested mitigation for impacts to forest lands for two of these projects: the Richmond International Airport East Side Clearing and Building Demolitions project and the Fort Belvoir Real Property Master Plan Update project.

APPENDIX A



COMMONWEALTH of VIRGINIA

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

Charles A. Kilpatrick, P.E.
Commissioner

September 1, 2015

Ms. Sandra J. Adams, Commissioner
Virginia Department of Agriculture and Consumer Services
P.O. Box 1163
Richmond, Virginia 23218

Attention: Erin Williams

Dear Ms. Adams:

Attached is the Virginia Department of Transportation's current program/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 are the results of our analysis of the impacts of VDOT projects on these lands from July 1, 2014 to June 30, 2015. If you have any questions, please contact Elizabeth Jordan at (804) 371-0877.

Sincerely,

A handwritten signature in blue ink that reads "Angel Deem".

Angel Deem
Environmental Division Director

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 had one of the listed characteristics.
- Submit the plan annually so that the Secretary of Agriculture and Forestry can submit his report to the chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources by December 1st.

Results of the Analysis of the Impact of VDOT Projects

Total land acreage converted to other use: **374.8 acres**
This is the amount of right-of-way purchased by VDOT in FY15.
Construction begins approximately 6 months to 1 year after purchase.

Total farmland acreage planned to be converted: **53.85 acres**
This is the amount of farmland estimated in FY15 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: **98.38 acres**
This is the amount of forestland estimated in FY15 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.

APPENDIX B

Molly Joseph Ward
Secretary of Natural Resources

Clyde E. Cristman
Director



COMMONWEALTH of VIRGINIA
DEPARTMENT OF CONSERVATION AND RECREATION

Joe Elton
Deputy Director of Operations

Rochelle Altholz
*Deputy Director of
Administration and Finance*

David Dowling
*Deputy Director of
Soil and Water and Dam Safety*

October 21, 2015

Commissioner Sandra J. Adams
Virginia Department of Agriculture and Consumer Services
Commissioner's Office
102 Governor Street
Richmond, Virginia 23219

Subject: FY 2015 Farm and Forest Land Protection Status Report

Dear Commissioner Adams:

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 FY 2015. As a conservation agency, the Department always strives to minimize impacts to farm and forest land on its properties. Conversion is often minimized because we are taking recreational use land and merely changing the type of recreational use. For FY 2015 the Department reports no impacts on farm or forest land.

If you have any questions regarding our submittal, please do not hesitate to contact us. I may be reached at (804) 786-4378 or at lisa.mcgee@dcr.virginia.gov.

Sincerely,

A handwritten signature in blue ink that reads "Lisa D. McGee".

Lisa D. McGee
Policy and Planning Director

Attachment

Cc: Clyde E. Cristman, DCR Director
Erin Williams, VDACS Policy Analyst

600 East Main Street, 24th Floor | Richmond, Virginia 23219 | 804-786-6124

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

Analysis of the Impact of Agency Projects for FY15:

- Number of projects completed between July 1, 2014 and June 30, 2015: 13
- Total land acreage converted to other use: 9.0 acres
- Total farm land acreage converted: 0.0 acres
- Total forest land acreage converted: 0.0 acres
- Total acreage of other lands converted (excluding farm and forest): 9.0 acres

Park	Project Description	Total Land Converted to Other Use	Farm Land Converted	Forest Land Converted	Other Acreage Converted
HM	Renovate Campground C Bathhouse	0	0	0	0
KP	RV Campground Bathhouse Drain Field Repair	4	0	0	4
LA	Repair Picnic Area B Drain Field	2	0	0	2
NT	Repair Chairlift	0	0	0	0
PO	Repair Heritage Center Floor	0	0	0	0
TL	Emergency Dam Repairs	0	0	0	0
TL	Renovate Group Campground Bathhouse	0	0	0	0
WE	Replace Residence #1 Drain Field	1	0	0	1
NRT	Foster Falls Paving	0	0	0	0
DO	Renovate White Oak Bathhouse	0	0	0	0
DO	Replace Lakeside Septic System	1	0	0	1
FS	Renovate Campground Bathhouse	0	0	0	0
FS	Replace Beach Septic System	1	0	0	1
	Total	9	0	0	9

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, 2015:

For FY 2015 the Department reports no impacts on farm or forest land. However, as a matter of practice, the Department of Conservation and Recreation's 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 site of the development. Our overarching policy is directed toward having the development, whether it is 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.

APPENDIX C

MARK C. CHRISTIE
COMMISSIONER

JAMES C. DINITRI
COMMISSIONER

JUDITH WILLIAMS JAGDMANN
COMMISSIONER

COMMONWEALTH OF VIRGINIA



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

STATE CORPORATION COMMISSION

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VDACS-OPPR

August 27, 2015

The Honorable Sandra J. Adams
Commissioner
Virginia Department of Agriculture and Consumer Services
P.O. Box 1163
Richmond, Virginia 23218

Dear Commissioner Adams:

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 prior years.

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.

The Commission approves the construction of utility facilities. Commission approval is in addition to other 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.

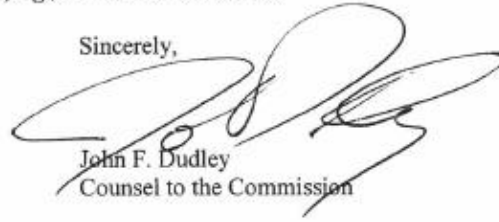
Furthermore, pursuant to § 62.1-44.15:5 D 2 of the Code, the DEQ (on behalf of the State Water Control Board) and the Commission have executed a second Memorandum of Agreement to ensure that consultation by the DEQ on wetland impacts occurs prior to siting determinations by the Commission for facilities 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', is written over the typed name and title.

John F. Dudley
Counsel to the Commission

cc: Erin Williams, Policy Analyst
Virginia Department of Agriculture and Consumer Services

Cody D. Walker, Assistant Director, Division of Energy Regulation
State Corporation Commission

APPENDIX D



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Street address: 629 East Main Street, Richmond, Virginia 23219
Mailing address: P.O. Box 1105, Richmond, Virginia 23218
www.deq.virginia.gov

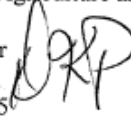
Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

MEMORANDUM

TO: The Honorable Sandra J. Adams, Commissioner
Department of Agriculture and Consumer Services

FROM: David K. Paylor 

DATE: August 27, 2015

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, proposed electric generating plants and associated facilities submitted to the State Corporation Commission (SCC), airport projects requiring license from the Department of Aviation, and federal projects. 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, 2014, to June 30, 2015, the DEQ (and its regulatory boards) had three comment periods on notices of intent (NOIRA) to adopt, amend or repeal a regulation and five comment periods on proposed adoption, amendment or repeal of regulatory text. In addition, there was one public comment period for a fast-track rulemaking. Comments were received

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regarding impacts to farm or forest lands during one of the regulatory comment periods. The specifics on the regulatory comment periods are listed below:

- The State Air Pollution Control Board issued one notice of a public comment period on a fast track regulation and three notices of public comment periods on proposals.
- The Virginia Waste Management Board held no public comment periods on regulations.
- The State Water Control Board issued three notices of intent of a regulatory rulemaking, and two notices of a public comment period on proposals. Comments relative to farm and forest land preservation were received during one proposed comment period.

DEQ accepted public comment on a proposed regulation titled "Certification of Nonpoint Source Nutrient Credits" under 9VAC25-900. During the public comment period, no comments were received in regards to any negative impacts of this regulation on farm activities. 9VAC25-900 is a new regulation for the certification of nonpoint source nitrogen and phosphorus nutrient credits. As part of the development process for this new regulation, the agency convened a regulatory advisory panel which included representatives of the agricultural community. Under this regulation, farmers may voluntarily choose to submit an application in order to certify any nonpoint source nitrogen and phosphorus nutrient credits that they may generate. These certified nonpoint source nutrient credits will be placed on a registry of credits and become part of an enforceable market-based trading program that will involve the exchange of pollution allocations between sources. This trading program will hopefully provide an incentive for farmers to reduce their nutrient loads to surface waters.

The agency diligently works with stakeholders, including those in the regulated community as well as those representing environmental organizations to only adopt regulations that are protective of human health and the environment while minimizing impacts to the regulated community.

Review of major state projects

During the past fiscal year (July 1, 2014, to June 30, 2015), the Office of Environmental Impact Review completed the review of 56 environmental impact reports (EIRs) for major state projects. The EIRs for these projects were coordinated with the Department of Forestry (DOF) and the Virginia Department of Agriculture and Consumer Services (VDACS) as appropriate. VDACS did not comment on any requests for comment on state projects. In all cases, DOF did not find that forest lands would be adversely affected by these projects.

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

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coordinated the reviews of six SCC applications between July 1, 2014 and June 30, 2015. VDACS did not provide any comments on SCC projects. DOF found that one of the six applications would have significant impacts on forest lands and the SCC determined that it would consider DOF's comments via the SCC rebuttal process. DOF recommended an alternative route for an application submitted for the Remington CT-Warrenton 230 kV Double Circuit Transmission Line, Vint Hill-Wheeler and Wheeler-Loudoun 230 kV Transmission Lines, 230 kV Vint Hill Switching Station and 230 kV Wheeler Switching Station, Case No. PUE-2014-00025, Option A, Alternative A 2/3 and Alternative A 2/3 project since it would cause fewer impacts to forest lands.

Federal Agency Projects

The DOF indicated that eight of the 119 federal agency projects (including private development requiring federal approvals) coordinated by DEQ from July 1, 2014 to June 30, 2015, could have adverse impacts (some significant) on forestry resources. DOF requested mitigation for impacts to forest lands for two of these projects: the Richmond International Airport East Side Clearing and Building Demolitions (OEIR Project No. 15-072F) and the Fort Belvoir Real Property Master Plan Update (OEIR Project No. 14-157F) projects.