



MEMORANDUM

INTRODUCING FEDERAL NATIONAL ENVIRONMENTAL POLICY ACT PRACTITIONERS TO THE VIRGINIA ENVIRONMENTAL IMPACT REPORT PROCEDURE

This fact sheet is designed to familiarize Federal [National Environmental Policy Act](#) (NEPA) practitioners with the [Virginia Environmental Impact Report procedure](#) (VA EIR). When a proposed NEPA action also requires compliance with the VA EIR procedure, it is important that practitioners familiarize themselves with the VA EIR procedure and understand how it compares to and contrasts with NEPA.

Both statutes are designed to facilitate informed decision-making and environmental review. The Virginia Code requires state agencies to prepare and submit an environmental impact report (EIR) identifying and evaluating the environmental effects of proposed state facilities. This fact sheet compares the VA EIR and the [Virginia Code 10.1-1188](#) (VA Code) with CEQ’s regulations for implementing the procedural provisions of NEPA, [40 CFR Parts 1500-1508](#).

This fact sheet only provides basic information and is intended to serve as a springboard for discussion with [Virginia Department of Environmental Quality Office of Environmental Impact Review](#) (VA DEQ OEIR) staff when proposed projects trigger both Federal and state environmental review requirements. Project proponents are strongly encouraged to contact DEQ in the early stages of project planning so that Federal and state environmental review processes, if applicable, can be appropriately aligned.

Introduction

The Virginia Code requires state agencies to consider the impact of major state projects on the environment to ensure environmentally sound developments. Since 1973, the VA EIR procedure has mandated the completion of environmental impact reports for state actions meeting the definition of a “major state project.” The VA EIR procedure applies to major state projects, including, the “acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility costing \$500,000 or more which is hereafter undertaken by any state agency, board, commission, authority or any branch of state government” [VA Code 10.1-1188](#).

Key Points of Comparison

The table below compares NEPA terms and procedural requirements to VA EIR terms and procedural requirements set forth in the VA Code.

| NEPA | VA EIR |
|----------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| Categorical Exclusion, 40 CFR 1508.4 , 40 CFR 1507.3 | N/A |
| Environmental Assessment (EA), 40 CFR 1508.9 , 40 CFR 1501.3 | Environmental Impact Report (EIR), VA Code 10.1-1188 |



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|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| Finding of No Significant Impact (FONSI), 40 CFR 1508.13 | N/A |
| Notice of Intent, 40 CFR 1508.22 | N/A |
| Draft Environmental Impact Statement (DEIS), 40 CFR 1502 , 40 CFR 1508.11 | N/A |
| Final Environmental Impact Statement (FEIS), 40 CFR 1502 , 40 CFR 1508.11 | Environmental Impact Report (EIR), VA Code 10.1-1188 |
| Record of Decision, 40 CFR 1505.2 | Approval from the Secretary of Administration |

The bullets below provide a general comparison of processes:

- The VA EIR procedure does not have processes similar to categorical exclusions [40 CFR 1508.4](#), [40 CFR 1507.3](#). The [DEQ OEIR Procedure Manual](#) includes a list of actions excluded from the EIR process.
- Both NEPA and the VA EIR procedure require an environmental review to include the action's description; environmental, and historic impacts; considered alternatives; potential mitigation measures; and irreversible commitments of resources. [VA Code 10.1-1188](#); [40 CFR 1502.16](#).
- The VA EIR procedure does not require that an EIR be made available to the public, but the DEQ does consider any information that it receives about the environmental effects of a project that is under review. [VA Code 10.1-1188](#). NEPA, for an EIS, requires a 45-day public comment period and requires a public hearing if there is significant public interest. [40 CFR 1506.6\(c\)](#) and [1506.10\(c\)](#).
- State agencies that must comply with NEPA do not need to complete an additional process for a VA EIR. If a federal statement has been prepared, the DEQ does not mandate additional VA EIR documentation and will accept a NEPA document. [DEQ OEIR Procedure Manual](#).
- Some actions are excluded by the statute, including projects of any housing development and redevelopment authority, industrial development authority and VA port authority (unless the major state project is a capital project that costs more than \$5 million) [VA Code 10.1-1188](#). Any agency's actions which are not excluded by the statute must undergo the VA EIR procedure.



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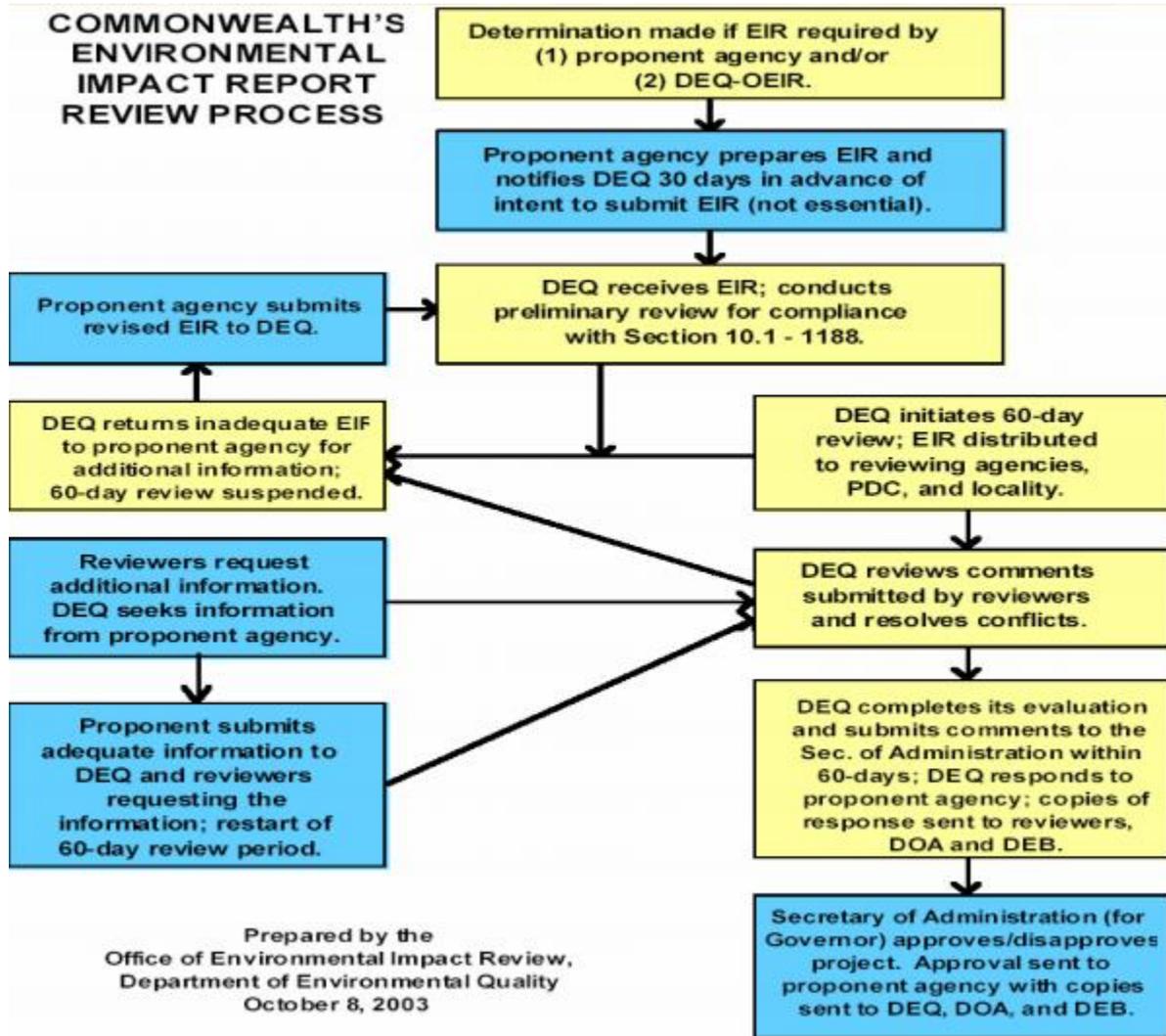
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- EIR Website: <http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview.aspx>



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Figure 1: VA EIR Procedure¹



¹ <https://dgs.virginia.gov/LinkClick.aspx?fileticket=YF%2BdrLxF3g%3D&tabid=1001>