

**APPENDIX A**  
**Sampling of State-by-State Environmental Programs**

**Alabama**

Statutory provisions:

§ 9-7-15. No agency can issue a permit for any activity in the coastal area that the Department of Environmental Management finds to be inconsistent with the coastal area management program.

§ 9-7-20. This coastal area management program incorporates consideration of various environmental factors.

§ 9-16-96. Surface area designated unsuitable for mining if affects fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems.

§ 11-68-9. Certificates of appropriateness must be obtained from Historic Preservation Commission prior to changes in historic property or district. Must be obtained prior to building permit.

Regulatory provisions:

Chapter 335-8-2. Under coastal area management program, an application for a permit to construct a motel, hotel, condominium, or planned multi-unit development shall contain an "environmental impact and natural hazards study."

Chapter 460-X-5. Incorporates for environmental review, provisions in National Historic Preservation Act. 460-X-1 thru 460-X-12 apply to Alabama Historical Commission.

**Alaska**

Statutory provisions:

§ 16.05.870. Prior to beginning construction on a waterbed, a person or governmental agency must notify the Fish & Game Commissioner of this intention before the beginning of the construction or use. The Commissioner *may* request plans for the protection of fish & game.

§ 41-35-070. Before public construction or public improvement of any nature is undertaken by the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric, or archeological values. If the department determines that historic, prehistoric, or archeological sites, locations or remains will be adversely affected by the public construction or improvement, the proposed public construction or improvement may not be commenced until the department has performed the necessary investigation, recording, and salvage of the site, location or remains.

§ 41-35-090. Before construction, alteration, or improvement is undertaken on a privately owned, officially designated state monument or historic site by any person, the person shall give the department three months notice of intention to construct on, alter, or improve it. Before the expiration of the three-month notification period, the department shall either begin eminent domain proceedings under [AS 41.35.060\(b\)](#) or salvage any historic, prehistoric, or archeological information considered necessary.

§ 44.37.030. Dep't of Nat. Resources shall ensure that historic, prehistoric and archaeological resources are properly reported by persons or agencies engaged in public construction work.

## Arizona

### Statutory provisions:

9-461.05. Regarding development plans for each municipality, for cities with populations of 50000 or more, the plans shall include a conservation element for the conservation, development and utilization of natural resources, including forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources; a recreation element showing parks, beaches, open space, etc. No mention of the specific resources.

9-462.01. The legislative body of any municipality by ordinance may establish districts of historical significance provided the ordinances may require that special permission be obtained for any development within the district if the legislative body has adopted a plan for the preservation of districts of historical significance.

11-806. County planning and zoning commissions shall develop comprehensive plan which may include open space, hiking and riding trails, airports, forests, wildlife areas, dams, projects affecting conservation of natural resources, air quality, water quality and floodplain zoning, etc.

41-864. The state historic preservation officer has thirty working days in which to review and comment on any plans of a state agency which involve property which is included on or may qualify for inclusion on the Arizona register of historic places, including any construction project, sale, lease or acquisition of historic properties, to ensure that the prehistorical, historical, architectural or culturally significant values will be preserved or enhanced.

### Regulatory provisions:

AZ AAC R18-9-A202. Applicants for aquifer protection permits must submit an evaluation of environmental impacts.

R18-15-107. Water Infrastructure Finance Authority conducts environmental review to determine impacts of design or construction of water infrastructure works.

## Arkansas

### Statutory provisions:

§ 14-172-208. No building or structure shall be erected, altered, restored, moved, or demolished within historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by historic district commission. The municipality or county shall require a certificate of appropriateness to be issued by the commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures. A certificate of appropriateness shall be required whether or not a building permit is required.

## Colorado

### Statutory provisions:

24-65.1-201. Under the Colorado Land Use Act, a local government may designate certain areas of state interest such as "areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance."

24-65.1-202(3). "Areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance, as determined by the state historical society, the department of natural resources, and the appropriate local government, shall be administered by the appropriate state agency in conjunction with the appropriate local government in a manner that will allow man to function in harmony with, rather than be destructive to, these resources. Consideration is to be

given to the protection of those areas essential for wildlife habitat. Development in areas containing historical, archaeological, or natural resources shall be conducted in a manner which will minimize damage to those resources for future use."

24-65.1-501. Any person desiring to engage in development in an area of state interest or to conduct an activity of state interest shall file an application for a permit with the local government in which such development or activity is to take place. Notice and hearing provisions. The local government may approve an application for a permit to engage in development in an area of state interest if the proposed development complies with the local government's guidelines and regulations governing such area. If the proposed development does not comply with the guidelines and regulations, the permit shall be denied. There will be a written record of this decision.

29-20-104. Local governments have the authority to plan for land use by protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species and preserving areas of historical and archaeological importance.

30-28-106. County master plans may include locations of culturally, historically, or archaeologically significant buildings, sites, and objects; forests, open spaces, wildlife areas; areas containing endangered or threatened species, wetlands, floodplains, etc.

31-23-206. Municipality master plans shall include locations of culturally, historically, or archaeologically significant buildings, sites, and objects; forests, open spaces, wildlife areas; areas containing endangered or threatened species, wetlands, floodplains, etc.

## **Connecticut**

Conn. Gen. Stat. §§ 22a-1 to 22a-1h. Environmental Policy Act.

The Connecticut Environmental Policy Act states that "it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Connecticut residents." Conn. Gen. Stat. §§ 22a-1a. (Source: The General Statutes of Connecticut website, Conn. Gen. Stat. §§ 22a-1 to 22a-1h. <http://www.cga.state.ct.us/2003/pub/Chap439.htm> ). Each agency must prepare, and revise every two years, an environmental classification document listing typical agency actions and whether or not they will require preparation of an environmental impact evaluation. Ct. ADC 22a-1a-4 thru 22a-1a-6.

Prior to a decision to do an environmental impact evaluation for an action which may significantly affect the environment, state agencies must conduct a public scoping process. § 22a-1b. This includes public notice and comment. These comments should be addressed in the environmental impact evaluation. The evaluation must include impacts, mitigation and alternatives, an analysis of the short term and long term economic, social and environmental costs and benefits of the proposed action, a description of the effects of the proposed action on sacred sites or archaeological sites of state or national importance, etc. § 22a-1b; Ct. ADC 22a-1a-7. Direct and indirect effects must be considered including: disruption or alteration of an historic, archeological, cultural, or recreational building, object, district, site or its surroundings; effect on natural communities and upon critical species of animal or plant and their habitats; interference with the movement of any resident or migratory fish or wildlife species; substantial impact on natural, cultural, recreational or scenic resources. Ct. ADC 22a-1a-3. A finding of no significant impact may be prepared and submitted to all appropriate agencies. Ct. ADC 22a-1a-10.

Opportunity for review and comment is provided to the public and the Council on Environmental Quality, the Department of Environmental Protection, the Connecticut Historical Commission, the Office of Policy and Management, the Department of Economic and Community Development in the case of a proposed action that affects existing housing, and other appropriate agencies, and to the town clerk of each municipality affected. § 22a-1d. A written determination on the adequacy of the evaluation is made by the Office of Policy and Management. § 22a-1e.

"Actions which may significantly affect the environment" are "individual activities or a sequence of planned activities proposed to be undertaken by state departments, institutions or agencies, or funded in whole or in part by the state, which could have a major impact on the state's land, water, air, historic structures and landmarks as defined in section 10-320c (any building, structure, object or site that is significant in American history, architecture, archaeology and culture or property used in connection therewith including sacred sites and archaeological sites), existing housing, or other environmental resources, or could serve short term to the disadvantage of long term environmental goals." § 22a-1c. The regulations include in the definition: "or other proposed activity for which an agency exercises judgment or discretion as to the propriety of that action." Ct. ADC 22a-1a-1.

## **Delaware**

### Statutory provisions

7 Del.C. § 7207. Secretary of Dep't of Nat. Resources *may* require an environmental assessment prior to granting a permit for construction on any subaqueous land. *See also* Code Del. Regs. 70 500 008.

7 Del.C. § 6604. Any activity in wetlands requires a permit and the Dep't must consider environmental impact prior to issuance. *See* regs. 70 500 007 below.

7 Del.C. §§ 7004, 7005. Manufacturing uses in the coastal zone require a permit, and the Dep't must consider environmental impact prior to issuance. *See* regs. 70 600 001, 002 (describing EIS requirement and content).

7 Del. C. 7004, 7005. "Coastal zone" is defined as: "all that area of the State, whether land, water or subaqueous land between the territorial limits of Delaware in the Delaware River, Delaware Bay and Atlantic Ocean, and a line formed by certain Delaware highways and roads..." "Manufacturing uses" is defined as: "the mechanical or chemical transformation of organic or inorganic substances into new products, characteristically using power-driven machines and materials handling equipment, and including establishments engaged in assembling component parts of manufactured products, provided the new product is not a structure or other fixed improvement." This does not include "heavy industry" which uses greater than 20 acres and large equipment, ie -oil refineries, chemical plants, etc. 7 Del. C. 7002.

7 Del.C. § 7508. Each county government shall adopt and incorporate overlay zoning ordinances, guidelines and specific technically based environmental performance standards, design criteria and mitigation requirements, where appropriate, that shall apply to significant ecological functions and identified historic and archeological sites on these lands.

No definition of "significant ecological functions" in this statute, the Delaware Land Protection Act. This statute refers to land designated as a "state resource area" as designated for protection.

9 Del. C. § 2656. Re: New Castle County comprehensive land use plans. Plans shall include future land use plan element with land use maps or map series which shall generally identify and depict historic district boundaries and shall designate historically significant properties meriting protection (g)(1); mobility element which shall be consistent with the State Implementation Plan (SIP) for air quality attainment (g)(2); conservation element for the conservation, use and protection of natural resources in the area and which results in the identification of these resources which at minimum, the element shall consist of such natural area classifications as wetlands, wood uplands, habitat areas, geological areas, hydrological areas, floodplains, aquifer recharge areas, ocean beaches, soils and slopes, and shall also consider areas most suited for agricultural uses, silvacultural uses and watershed protection (g)(4); recreation and open space element indicating a comprehensive system of public and private sites for recreation including, but not limited to, nature preserves, parks and playgrounds, parkways, water bodies including beaches and public access to beaches, open spaces and other recreational facilities (g)(5); an historical preservation element which sets out plans and programs for those structures or lands in the area having historical, archaeological, architectural or similar

significance and shall be developed in consultation with and reviewed by the Division of Historical and Cultural Affairs of the Department of State (g)(9). These same requirements exist for Kent County (9 Del. C. § 4956) and Sussex County (§ 6956).

22 Del.C. § 702. Municipalities must develop comprehensive plans for development accounting for protection of historic and cultural resources. No development shall be permitted except as consistent with the plan.

29 Del. C. Ch. 92. Local land use planning is subject to this chapter if it involves critical areas (area wherein the establishment or maintenance of a viable physical, economic or social environment is of more than local concern; or the physical, economic or social characteristics of said area are of primary importance or uniquely sensitive, including, but not limited to, wetlands, major port facilities and historic areas, § 9202). § 9211. Local govts. must inform the Office of State Planning Coordination with notice of any land use planning subject to this chapter, who in turn, will transmit notice to interested agencies. §§ 9214, 9215. State agency comments shall consider impact on "physical environment" (no definition of this). § 9216. These comments will be provided to the local jurisdiction. § 9218. The local jurisdiction may hold a hearing, or the Office of State Planning may require a hearing. § 9219. State land use planning is also subject to this requirement if it involves a critical area. § 9225.

Regulatory provisions:

Code Del. Regs. 70 500 007. Permit required for any activity in wetlands. Environmental Summary not required for Type I permits, but is required for Type II permit (for building, construction/maintenance of electrical, water, gas, oil lines). Fact sheet on project distributed to many offices for comment including Council on Historical & Cultural Affairs.

## **Florida**

Statutory provisions:

Florida Stat. § 161.041. A coastal construction permit must be obtained by any company or local government for coastal construction. Dep't of Env. Protection shall not issue any permit for the construction of a coastal inlet jetty or the excavation or maintenance of such an inlet if the activity authorized by the permit will have a significant adverse impact on sandy beaches without an approved mitigation program. Dep't may require mitigation as a condition of any coastal construction permit.

§ 163.3191. A local appraisal report is required every 7 years for local land development plans. Reports must include environmental impacts of major issues.

§ 163.3177. Requires local land use planning to account for conservation of natural resources and identify historic sites and districts meriting protection. *See* regs. Rules 9J-5.013; 9J-5.022.

Florida Stat. §§ 163.3177; 3191. Comprehensive land use plans *shall* include a conservation element for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources. *Shall* also include a future land use plan element including maps to identify and depict historic district boundaries and shall designate historically significant properties meriting protection. *May* include an historical and scenic preservation element setting out plans and programs for those structures or lands in the area having historical, archaeological, architectural, scenic, or similar significance. *Certain areas shall* include a coastal management element addressing continued existence of viable populations of all species of wildlife and marine life; the orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources; preservation, including sensitive adaptive use of historic and archaeological resources; and avoidance of irreversible and irretrievable loss of coastal zone resources.

§ 380.05. Specific areas may be designated as areas of state concern. This is determined by environmental and ecological factors and impact on historical or archaeological resources. Recommendations are made which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.

§ 380.051. Regarding coordinated agency review of assessment of environmental impact of proposed development in the Florida Keys. *See* regs. Rules 62-112.030; 64E-7.003.

§ 380.0552. Principles for guiding development in the Keys include protection of habitats, fish & wildlife, reefs, wetlands, etc. and protect historical heritage and character of Keys.

§ 380.06. Proposed changes in development must be reviewed again by local government if any change which would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. *See also* 380.061.

#### Regulatory provisions:

Rule 9J-2.0815. Regarding developments of regional impact proposed by developer, Dep't of Community Affairs must consider relevant material adverse impacts significantly affecting endangered, threatened and special concern plant and animal species, populations and habitats; unique or rare natural communities; significant archaeological and historical resources; and floodplains, wetlands, estuaries, beaches, dunes, aquifer and recharge areas.

Rule 9J-5.006. Local government comprehensive plans for future land use must ensure protection of natural and historic resources.

Rule 9J-5.012. Local government coastal planning documents should include analysis of impact of development on historic resources and sites and analyses of the effect of the future land uses as required to be shown on the future land use map or map series on the natural resources in the coastal planning area shall be prepared including: vegetative cover, including wetlands; areas subject to coastal flooding; wildlife habitats; and living marine resources. Maps shall be prepared of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern to local government.

Rule 9J-28.009. If development is designated as a Florida Quality Development, developer must follow enumerated environmental preservation (including endangered species, etc.) standards and consider historical sites as designated by Division of Historical Resources.

[Chapter 40 deals with management of water districts, including environmental resource permits for each district. Require opportunity for comment by Division of Historical Resources, Fish & Wildlife Commission, etc.] Examples:

Rule 62 pertains to the Dep't of Environmental Protection, including permitting (62-4) and specific types of permits including construction permits (62-4.210. No person shall construct any installation or facility which will reasonably be expected to be a source of air or water pollution without first applying for and receiving a construction permit from the dep't....) Rule 62 has a multitude of provisions for permitting for different types of facilities and activities.

#### Other examples under Rule 62:

Rule 62-312. Regarding mitigation proposals from permit applicants for dredging and filling activities.

Rule 62-344.500. Description of delegation to local governments of certain environmental resource permitting decisions.

Rule 62-503.700. Regarding funding associated with wastewater or stormwater collection, transmission, treatment or disposal facilities. Planning should include environmental impacts. Dep't of Environmental Protection will perform environmental review for certain projects. Under certain circumstances, a full EIS will be required. Also need to document cultural, historical, archaeological, biological, and fiscal aspects of a project during the facilities planning process. *See also* 62-505.700 (re: small community wastewater facilities grants); 62-552.700 (drinking water facilities).

Rule 62-620.550. Public notice must be given when the Dep't prepares a draft permit for new wastewater facilities or activities, and revised permits. This notice also specifically goes to: Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources; over historical and archaeological sites; and over coastal zone management plans. *See also* 62-625.510. Requirement also for applications by any state, county or municipality owning, managing, controlling or operating or proposing to construct a domestic wastewater facility and use pretreatment technology.

Rule 62B-33.005. Regarding construction on coastal property. When assessing construction permit applications, Dep't Env. Protection should make impact assessment including effects of construction on coastal system and marine turtles. *See also* 62B-41.007 (protection for environment and historical sites when siting coastal construction).

Rule 62D-15.008. Myakka Scenic River. Permits required for activities including construction, dredging, renovations, etc. (*see* 62D-15.006). Factors considered when issuing permit include impacts on various specified environmental aspects, damage to historic, cultural sites.

There are other provisions referencing environmental considerations when granting variances related to some of these requirements.

## **Georgia**

The Georgia Environmental Policy Act states that: "State agencies should conduct their affairs with an awareness that they are stewards of the air, land, water, plants, animals, and environmental, historical, and cultural resources." Ga. Code §12-16-2. (Source: Georgia General Assembly, Unannotated Georgia Code website, Ga. Code §§ 12-16-1 to 12-16-8. [http://www.legis.state.ga.us/cgi-bin/gl\\_codes\\_detail.pl?code=12-16-1](http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=12-16-1) ). There are no regulations specifically implementing this Act.

'Proposed governmental action' means any proposed land-disturbing activity by a government agency or funded by a grant from a government agency, any proposed sale or exchange of more than five acres of state owned land, or any proposed harvesting of five acres or more of trees over two inches in diameter at breast height. §12-16-3. Statute explicitly excludes: any action or undertaking of a nongovernmental entity, even if that action or undertaking requires a permit, license, or other approval by a government agency; any action or undertaking of a municipality, a county, or an authority of a municipality or county, unless more than 50 percent of the total cost is funded by a grant of a government agency or a grant of more than \$250,000.00 is made by a government agency; the permitting or licensing by a government agency of an action or undertaking; the promulgation and implementation of rules and regulations by a government agency; the sale of bonds by a government agency or any program of loans funded by the sale of bonds by a government agency; or litigation decisions made by a government agency. §12-16-3.

'A proposed governmental action which may significantly adversely affect the quality of the environment' means a project proposed to be undertaken by a government agency or agencies, for which it is probable to expect a significant adverse impact on the natural environment, including the state's air, land, water, plants, animals, historical sites or buildings, or cultural resources. §12-16-3. 'Government agency' means any department, board, bureau, commission, authority, or other agency of the state. §12-16-3.

If an agency determines that a proposed governmental action may significantly adversely affect the quality of the environment, the agency must prepare an environmental effects report including: impacts, alternatives, mitigation measures, unavoidable effects, etc., after which there is opportunity for public notice and comment. §§ 12-16-4, 12-16-5.

The Georgia Planning Act of 1989 also "encourages" each local government to develop planning documents containing minimum planning standards, identifying whether or not environmentally sensitive areas exist within their jurisdictions. There are criteria for water supply watersheds, groundwater recharge areas, wetlands protection, river corridor protection and mountain protection. Georgia Rules, Chapter 391-3-16. Sensitive natural areas include habitat, including nesting sites, occupied by rare or endangered species; rare or exemplary natural communities; significant landforms, hydroforms, or geological features; or other areas so designated by the Department of Natural Resources. *See* Ga. Code § 12-2-8.

## **Hawaii**

In Hawaii, under the Environmental Impact Statement Law, actions are also subject to environmental review. Hawaii Rev. Stat. Ann. §§ 343-1 to 343-8. (Source: Hawaii Office of Environmental Quality Control website:

<http://www.state.hi.us/health/oegc/rules/index.html>). An "Action" means any program or project to be initiated by any agency or applicant. § 343-2. (According to an Attorney General opinion, action includes the issuance of building permits. *See* Haw. Rev. Stat. Ann. § 343-2.) "Agency" means any department, office, board, or commission of the state or county government which is a part of the executive branch of that government. § 343-2.

Environmental assessments are required for actions which propose the use of state or county lands or funds, or propose the use of shoreline area, land within a conservation district, within a historic site or other specific areas. § 343-5. This assessment is a written evaluation to determine whether an action may have a significant effect. § 343-2. The assessment is prepared by the agency proposing the project or the agency receiving the request for approval by an applicant. § 343-5. Assessments shall contain a general description of the action's technical, economic, social, and environmental characteristics and a summary description of the affected environment, identification and summary of impacts and alternatives considered, and proposed mitigation measures. Haw. Admin. Rules § 11-200-10. An environmental impact statement shall be required if the agency finds that the action will have a significant effect on the environment. § 343-5. When assessing significant effects, the agency looks at whether the proposed action: irrevocably commits to loss or destruction of any natural or cultural resource; curtails the range of beneficial uses of the environment; substantially affects the economic welfare, social welfare, and cultural practices of the community or State; conflicts with the state's long-term environmental policies or goals; involves a substantial degradation of environmental quality; substantially affects a rare, threatened, or endangered species, or its habitat; detrimentally affects air or water quality or ambient noise levels; affects or is likely to suffer damage by being located in an environmentally sensitive area; substantially affects scenic vistas and viewplanes identified in county or state plans or studies; etc. Haw. Admin. Rules § 11-200-12.

After the final environmental assessment, the proposing or approving agency issues one of the following: an environmental impact statement preparation notice or a negative declaration finding there will be no significant effects from proposed action. Haw. Admin. Rules § 11-200-11.2. The draft EIS requires analysis of significant beneficial and adverse impacts (including cumulative impacts and secondary impacts); proposed mitigation measures; and alternatives considered. Haw. Admin. Rules § 11-200-17. It shall include a rigorous exploration and objective evaluation of the environmental impacts of all such alternative actions. The draft EIS shall address all probable adverse environmental effects which cannot be avoided. Any adverse effects such as water or air pollution, urban congestion, threats to public health, or other consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy in various state statutes. The draft EIS shall consider mitigation measures proposed to avoid, minimize, rectify, or reduce impact, including provision for compensation for losses of cultural, community, historical, archaeological, fish and wildlife resources, including the acquisition of land, waters, and interests therein. Haw. Admin. Rules § 11-200-17.

## **Idaho**

Statutory provisions:

Idaho Code § 67-4608. After the designation of a historic district, counties and cities must require a certificate from the Historic Preservation Commission prior to the issuance of a building or other permit granted for construction purposes.



Idaho Code § 67-6512. Local governments *may* require study of environmental effects prior to granting special use permits under zoning and land use planning authority.

## Illinois

Statutory requirements:

20 ILCS 3410/9. Public funds administered by State agencies shall not be used in projects which will have an adverse economic or environmental impact on a Registered Illinois Historic Place unless certain conditions are met.

20 ILCS 3420/4. Prior to the approval of the final design or plan of any undertaking by a State agency, or prior to the funding of any undertaking by a State agency, or prior to an action of approval or entitlement of any private undertaking by a State agency, written notice of the project shall be given to the Director either by the State agency or the recipients of its funds, permits or licenses. Consultation will follow to minimize or eliminate any effects on historic resources.

"Undertaking" means any project, activity, or program that can result in changes in the character or use of historic property, if any historic property is located in the area of potential effects. The project, activity or program shall be under the direct or indirect jurisdiction of a State agency or licensed or assisted by a State agency. An undertaking includes, but is not limited to, action which is:(1) directly undertaken by a State agency;(2) supported in whole or in part through State contracts, grants, subsidies, loan guarantees, or any other form of direct or indirect funding assistance; or (3) carried out pursuant to a State lease, permit, license, certificate, approval, or other form of entitlement or permission. 20 ILCS 3420/3(f).

"Agency" specifically includes all agencies and entities made subject to the Illinois APA by any State statute. 20 ILCS 3420/3(b). Does not include units of local government. See Illinois APA, 5 ILCS 100/1-20.

20 ILCS 830/3-1. Chapter 20, Section 830 is the Interagency Wetland Policy Act of 1989. State Wetland Mitigation Policy directs that each state agency shall preserve wetlands as a priority when developing construction or land management plans.

525 ILCS 30/14. Notice and hearing required prior to granting permit, etc. for use of nature preserves.

525 ILCS 30/17. All public agencies must evaluate whether actions including capital projects, authorized, funded or carried out by the Agency will have adverse results to any "natural area" as registered with the state. Before implementing any action, the agency shall attempt to mitigate or eliminate any adverse impacts.

This does include agencies of state and local governments.

"Natural area" means an area of land in public or private ownership which, in the opinion of the Commission, either retains or has recovered to a substantial degree its original natural or primeval character, though it need not be completely undisturbed, or has floral, faunal, ecological, geological or archaeological features of scientific, educational, scenic or esthetic interest. 525 ILCS 30/3.10. The Illinois Nature Preserves Commission is authorized to adopt policies for protection of habitats of endangered, threatened or rare species. 525 ILCS 30/6.07. The statutes does not give examples or definition of what "authorization" means.

Regulatory provisions:

8 Ill. Adm. Code 700 App. D. Describes Department of Conservation responsibilities for reviewing construction projects proposed by federal, state and local governments, and private interests to insure projects are constructed in a manner which is least damaging to Illinois' natural, cultural and recreational resources. May include use of environmental assessment reports. Exhibit A states that in reviewing projects, the DOC evaluates effects upon wildlife habitat, aquatic habitat, forest resources,

endangered and threatened species, natural areas, recreational resources, cultural and archaeological sites and other natural lands and waters which would be affected by the project.

Yes this includes permits: "The DOC's major objective is to insure that project sponsors minimize and mitigate impacts upon Illinois' natural, cultural and recreational resources. During its review, the DOC will assess the various project impacts and make comments and recommendations *to the permitting agency* or project sponsor to insure the project is constructed in an environmentally sound manner." (same cite, Exhibit A).

17 Ill. Adm. Code 3035.70. Permits for development of boat access areas must be acquired from Illinois EPA and Illinois Historic Preservation Agency.

Indiana (original SEPA repealed in 1996 and replaced by the following) -

Ind. Code Ann. §§ 13-12-4

The Indiana statute states that it is the policy of the state to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences and to preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice. Ind. Code 13-12-4-4. (Source: Indiana Code website, 13-12-4. <http://www.in.gov/legislative/ic/code/title13/ar12/ch4.html> ).

State agencies shall "include in every recommendation or report on proposals for legislation and other major state actions significantly affecting the quality of the human environment a detailed statement by the responsible official on the following: (i) The environmental impact of the proposed action; (ii) Any adverse environmental effects that cannot be avoided should the proposal be implemented; (iii) Alternatives to the proposed action; (iv) The relationship between local short term uses of the environment and the maintenance and enhancement of long term productivity; (v) Any irreversible and irretrievable commitments of resources that would be involved if the proposed action should be implemented." 13-12-4-5. The air pollution control board, water pollution control board, and solid waste management board shall by rule define the actions that constitute a major state action significantly affecting the quality of the human environment. 13-12-4-5. Environmental assessment form includes queries regarding: effects on historical or archaeological structures or sites, impacts on rare or endangered species or areas of scenic value, elimination on significant acreage of land presently used for forestry or agriculture. 326 IAC 16-1-5; 327-11-1-5; *see also* 326 IAC 16-2-3; 327-11-2-3.

Statute specifically excludes permitting process: "This chapter may not be construed to require an environmental impact statement for the issuance of a license or permit by any state agency." 13-12-4-8. Any state agency required by NEPA to file EIS is not required to file state statement "unless the action contemplated requires state legislation or state appropriations." 13-12-4-10.

The Division of Historic Preservation and Archaeology reviews environmental impact statements for actions significantly affecting historic properties. 14-21-1-12. A certificate of approval must be obtained from the Historic Preservation Review Board prior to any alteration of historic sites or structures. 14-21-1-18.

## **Iowa**

Statutory provisions:

Iowa Code 303.29. No change in the use of any structure or property within a designated historical district shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the commission (5 people elected by voters w/in the historical district-303.20).

Iowa Code 303.52. Board of trustees of district will formulate land use plans for "land use districts." The plan will regulate construction, etc. to maintain the distinctive historical or cultural character of the district. "Eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality." 303.41.

Iowa Code 352.3. A county land preservation and use commission is established for each county. Commission creates land preservation and use plans. Plan must contain methods of preserving and providing for recreational areas, forests, wetlands, streams, lakes and aquifers, preserving agricultural lands for agricultural production, promoting the efficient use and conservation of energy resources, methods to promote the creation and maintenance of wildlife habitat. 352.5.

Iowa Code 414.1. City zoning. Building restrictions, size, location, etc. may be regulated for the preservation of historically significant areas.

Regulatory provisions:

Iowa Admin. Code 571-13.6. Director of Nat. Res. Comm. *may* require applicant for permits and easements for construction on public lands and waters to show environmental impact.

## **Kansas**

Statutory provisions:

KSA § 82A-325 thru 327. The environmental effect of any water development project must be considered before such water development project is approved or permitted. However, nothing in this act shall be construed as prohibiting a permitting agency from approving or issuing a permit if an environmental review agency determines adverse environmental effects will result if the project is approved or permitted. Includes review by state historical society.

Regulatory provisions:

K. Admin. Regs. 5-45. Design of levees, floodplain fills should include environmental mitigation.

K.Admin. Regs. 118-3-3. Notice to State Historical Society of projects involving the issuance of a lease, permit, license, certificate, or other entitlement for use to any person by a governmental entity. This includes (1) projects directly or indirectly affecting any listed historic building, structure, object, district, or site, including any of the following: Exterior or interior projects involving the listed historical property, rezoning, special use or conditional use permits; subdivision of property; or vacation of streets or alleys; and (2) projects requiring permits that would affect the environs of a listed historic property, including any of the following: Rezoning; special use or conditional use permits; subdivision of property; vacation of streets or alleys; or exterior projects that affect any building, structure, object, or site in the environs of a historic property. Exceptions. Notice shall not be required when the issued lease, permit, license, certificate, or other entitlement is for interior projects in the environs of a listed property. In addition, notice shall not be required for any exterior projects in the environs of a listed property for replacement of deteriorated existing materials with new, matching materials, known as replacement-in-kind.

## **Kentucky**

Statutory provisions:

KRS 100.183, 100.187. The planning commission of each unit (counties, cities & other local units) shall create a comprehensive plan containing a land use plan element, a transportation plan element, a community facilities plan element, and *may* include additional elements such as conservation, natural resources, historic preservation.

KRS 100.201, 100.203. When comprehensive plan is adopted, units may enact regulations to protect historical districts, prime agricultural land and other natural resources.

KRS § 146.270. Establishment of Wild Rivers System. In such administration primary emphasis shall be given to protecting aesthetic, scenic, historic, archaeological, and scientific features of the area. No public use of lands within the boundaries of a designated wild river area in which the state has acquired an interest shall be permitted prior to the development of a management plan.

Regulatory provisions:

401 KY Admin. Regs. 4:130. Need to obtain permit for activity within Wild River corridor. Evaluation of permit application will include possible effects of the proposed new use on water quality, adjacent lands, aesthetics, fish and wildlife, vegetation, geologic features, historical and archaeological sites, recreational values, and endangered and threatened species.

405 KY Admin. Regs. 8:050. Regarding permit applications for surface coal mining on prime farmlands.

## **Louisiana**

Statutory provisions

LSA-RS 25:738; 25:757. No building permit shall be authorized by the governing body which affects a site or structure in the historic preservation district without a certificate of appropriateness except as otherwise permitted by the governing authority. No private building, structure, or edifice, including fences, boundary walls, signs, light fixtures, steps and paving or other appurtenant fixtures shall be erected, altered, restored, moved or demolished within historic preservation district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by historic preservation district commission.

"Governing body" refers to the local governmental unit: "Any municipality, incorporated town, lake commission, parish, parish council or similar governmental unit, which shall be designated as a governmental unit hereinafter, may establish within its borders an historic preservation district commission to promote the educational, cultural, economic and general welfare of the public and to take such action by vote of its governing body, that is, the mayor and city council, commissioners, mayor and board of aldermen, city-parish council, or police jury, as the case may be. Said governing body may make such appropriations as are necessary for the purpose of carrying out the provisions of this Chapter." LSA-RS 25:732.

LSA-RS 56:1849. Criteria for evaluation of application for permit for activity within the Natural and Scenic Rivers System include wilderness qualities, scenic values, ecological regimes, recreation, fish and other aquatic life, wildlife, cultural, historical and archaeological resources.

Regulatory provisions

43 LA. Admin. Code, Pt. I, § 723. Coastal use permits must be obtained for construction and other activities within the coastal zone. Nominations for special areas within the coastal zone must include a statement of the environmental impacts. § 729.

76 LA. Admin. Code, Pt. IX, § 117. Permit applications for activities in the scenic river system must be evaluated on the basis of wilderness qualities; scenic values; ecological regimes; recreation; aesthetic values; fish and other aquatic life; wildlife; historical and archaeological resources; geological resources; botanical resources; water quality; cultural resources, etc.

## Maine

### Statutory provisions

12 M.R.S.A. § 685-B(4). Approval of construction permits under land use district statutes requires: adequate technical and financial provisions made for complying with the requirements of the State's air and water pollution control and other environmental laws; adequate provision has been made for loading, parking and circulation of land, air and water traffic, in, on and from the site, and assurance that the proposal will not cause congestion or unsafe conditions; adequate provisions made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal; showing the proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site; etc.

This provision applies to the unorganized and deorganized townships of the state. These are areas that have not received permission to develop their own land use controls. (§ 682). The Maine Land Use Regulation Commission classifies these areas into protection districts ("areas where development would jeopardize significant natural, recreational and historic resources, including, but not limited to, flood plains, precipitous slopes, wildlife habitat and other areas critical to the ecology of the region or State"), management districts or development districts. (§ 685-A). The Commission also sets forth land use standards including to "protect and preserve significant natural, scenic and historic features where appropriate, beneficial and consistent with the comprehensive land use plan." (§ 685-A). The Commission must issue approval for the construction permits on these lands.

30-A M.R.S.A. § 4326. Municipalities must have growth management programs which includes inventory and analysis of significant water resources such as lakes, aquifers, estuaries, rivers and coastal areas and, when applicable, their vulnerability to degradation; significant or critical natural resources, such as wetlands, wildlife and fisheries habitats, significant plant habitats, coastal islands, sand dunes, scenic areas, shorelands, heritage coastal areas and unique natural areas; marine-related resources and facilities such as ports, harbors, commercial moorings, commercial docking facilities and related parking, and shell fishing and worming areas; commercial forestry and agricultural land; existing recreation, park and open space areas and significant points of public access to shorelands within a municipality or multimunicipal region; historical and archeological resources.

38 M.R.S.A. § 480C. A permit must be obtained for any dredging, draining, filling or construction of a permanent structure on or over any protected natural resource or is located adjacent to coastal or freshwater wetlands. Applicants must show that activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine or marine fisheries or other aquatic life. 480D.

38 M.R.S.A. § 483-A. Cannot construct or operate on any "development of state or regional significance that may substantially affect the environment" (any federal, state, municipal, quasi-municipal, educational, charitable, residential, commercial or industrial development that: occupies a land or water area in excess of 20 acres, is a metallic mineral mining or advanced exploration activity as defined in this section, is a structure or a subdivision as defined in this section, is an oil terminal facility as defined in this section [§ 482]) without first obtaining approval from the department (Env. Protection).

38 MRSA 488. This article does not apply to deorganized areas which are covered above in 12 MRSA 682. Also do not need to obtain separate approval under this article for structures within permitted commercial and industrial subdivisions.

### Regulatory provisions

04-061 CMR Ch. 10, § 10.13-B. Criteria for Approval of Permit Applications under a Land Use Plan. Permit shall not be approved unless Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment

in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal.

04-061 CMR Ch. 10, § 10.14. A Planned Development Subdistrict requires a preliminary development plan application including a statement of the environmental impact of the proposed development which sets forth the reasonably foreseeable adverse effects and measures to be taken by the applicant to minimize such effects.

04-061 CMR Ch. 10, § 10.17. General Land Use Standards. Uses requiring permits in wetland areas, level of review determined by type of wetland. Project applications will be denied if there is an unreasonable impact, meaning activity will unreasonably interfere with existing scenic, aesthetic, recreational or navigational uses, activity will cause unreasonable erosion of soil or sediment or unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment, activity will unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic habitat, travel corridor, freshwater or marine fisheries or other aquatic life. Land use commission must consider cumulative effects of frequent minor alterations on the wetland and disturbance to endangered species.

04-061 CMR Ch. 15, § 3. Private road construction: landowners should give advanced consideration to avoiding areas where road location or increased public access are not desirable. In this regard, areas near water bodies and in wetlands, steep slopes, wildlife habitat, high mountain areas, areas of historical or cultural significance, and remote recreational areas should be avoided wherever possible. If not in keeping with guidelines, require permit.

06-096 CMR Ch. 380, § 2. Under a planning permit, the activity may not be conducted in an area where the department determines that the activity may have a direct or indirect unreasonable impact on nearby properties, protected natural resources, natural buffer strips, unusual natural areas, historic sites, or wildlife and fisheries, unless measures to mitigate or prevent these impacts for the specific site of the proposed activity have been previously approved by the department.

06-096 CMR Ch. 1000, §16. Municipal shoreland zoning ordinances. Permit applications must show that it will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat, will protect archaeological and historic resources as designated in the comprehensive plan, will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters, etc.

## **Maryland**

The Maryland Environmental Policy Act declares that: "Adverse environmental effects of proposed actions can be anticipated, minimized, and often eliminated if environmental evaluations are made a part of the decision-making processes of the State." Md. Nat. Res. Code Ann. § 1-302. (Source: Maryland Statutes website, §§ 1-301 to 1-305. [http://mlis.state.md.us/cgi-win/web\\_statutes.exe](http://mlis.state.md.us/cgi-win/web_statutes.exe) ).

All State agencies shall prepare, in conjunction with each proposed State action significantly affecting the quality of the environment, an environmental effects report including: effects of the action, mitigating measures, alternatives, etc. 1-304. There is opportunity for public notice and comment. 1-304. The Office of Planning coordinates review if multiple agencies involved. *See* Code Md. Regs. 14-24-01.

An "Environmental effects report" means a report on each proposed State action significantly affecting the environment, natural as well as socioeconomic and historic. "Historic resources" means those resources included in the Maryland inventory of historic sites. "Proposed State action" means requests for legislative appropriations or other legislative actions that will alter the quality of the air, land, or water resources. It does not include a request for an appropriation or other action with respect to the rehabilitation or maintenance of existing secondary roads. "State agencies" includes the executive and administrative departments, offices, boards, commissions, and other units of the State government and any such bodies created by the State. 1-301.

## Massachusetts

The Massachusetts Environmental Policy Act (MEPA) requires that "all agencies, departments, boards, commissions and authorities of the commonwealth shall review, evaluate, and determine the impact on the natural environment of all works, projects or activities conducted by them and shall use all practicable means and measures to minimize damage to the environment." Mass. Gen. Laws, Ch. 30, § 61. (Source: The General Laws of Massachusetts website, Ch. 30, §§ 61-62H, <http://www.state.ma.us/legis/laws/mgl/gl-30-toc.htm>). All determinations shall include findings describing the environmental impact and all measures taken to avoid or minimize impact. § 61.

Under this state's statutes, a "project" is work, project, or activity either directly undertaken by an agency, or if undertaken by a person, which seeks the provision of financial assistance by an agency, or requires the issuance of a permit by an agency. § 62. "Agency" includes an agency, department, board, commission or authority of the commonwealth, and any authority of any political subdivision which is specifically created as an authority under special or general law. § 62.

Upon proposal of a project, the secretary of environmental affairs is notified with an Environmental Notification Form (ENF) and issues a certificate stating whether an Environmental Impact Report (EIR) is required. § 62A. The regulations provide for various review thresholds which aid in determining whether an EIR or other MEPA review is required. The elements examined include the impacts of and to: alteration of land; rare species and their habitats; wetlands, waterways and tidelands; water; wastewater; transportation; energy; air; solid and hazardous waste; historical and archaeological resources; and areas of critical environmental concern. 301 CMR 11.03.

The ENF should address these thresholds and describe potential environmental impacts and proposed mitigation measures. 301 CMR 11.05. An EIR shall contain statements describing the nature and extent of the proposed project and its environmental impact; all measures being utilized to minimize environmental damage; any adverse short-term and long-term environmental consequences which cannot be avoided should the project be undertaken; and reasonable alternatives to the proposed project and their environmental consequences. § 62B. If a report is required, the secretary shall "limit the scope of the report to those issues which by the nature and location of the project are likely to cause damage to the environment." § 62A. The EIR includes a description and analysis of the site including: topography, geology and soils; surface and groundwater hydrology and quality; air quality and noise; plant and animal species and habitat; traffic, transit, and pedestrian and bicycle transportation; scenic qualities, open space and recreational resources; Historic Structures or Districts, and Archaeological Sites; rare or unique features of the site; and the built environment, human use and infrastructure of the site. 301 CMR 11.07.

## Michigan

### Statutory provisions

M.C.L.A. 324.30306. Application for permits for wetland activity include an environmental assessment. Criteria considered includes probable impact of each proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed, the probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife. 324.30311.

M.C.L.A. 324.35313. A zoning ordinance shall require that all applications for permits for the use of a critical dune area include an environmental assessment for a special use project. An EIS may be required if the additional information is considered necessary or helpful in reaching a decision on a permit application for a special use project. *See* 324.35320 for contents of EIS.

M.C.L.A. 399.205. A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district.

## Minnesota

Minnesota requires an environmental review process under the Minnesota Environmental Policy Act of 1973. Minn. Stat. Ann. §§ 116D.01-116D.11; Minnesota Rules, Chapter 4410. (Source: Minnesota Environmental Quality Board website: <http://www.eqb.state.mn.us/review.html> ).

Environmental Impact Statement (EIS) is mandatory for certain projects based on size, nature or location that make it inevitable that there will be potential environmental effects. Minnesota Rules 4410.4400. EIS may be required for other projects after completion of a six page Environmental Assessment Worksheet (EAW). There are mandatory EAWs, discretionary EAWs or EAW by petition. The responsible governmental unit (the state or local agency) completes the EAW if there may be potential for significant environmental effects. § 116D.04. Information in EAW includes project impacts on the following: fish and wildlife resources and habitats; physical impacts on water resources; water use and quality; erosion; geologic hazards and soil conditions; solid wastes; traffic; vehicle related air emissions; stationary source air emissions; odor, noise and dust; visual impacts; archaeological, historical and architectural resources; prime or unique farmlands; designated parks, recreation areas or trails; scenic views and vistas; other unique resources. (See EAW at <http://www.mnplan.state.mn.us/pdf/1999/eqb/eaw.pdf> ). In determining whether an EIS is required, the agency looks at type, extent, and reversibility of environmental effects; cumulative potential effects of related or anticipated future projects; the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority; and the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs. Minnesota Rules 4410.1700.

The EIS describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. § 116D.04. A decision may not be made to grant a permit or approve a project until a petition for an environmental assessment worksheet is dismissed; a negative declaration has been issued on the need for an environmental impact statement; the environmental impact statement has been determined adequate; or a variance has been granted from making an environmental impact statement by the environmental quality board. § 116D.04.

"Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project. Minnesota Rules 4410.0200. "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government. 4410.0200.

## Mississippi

Statutes -

Miss. Code Ann. § 17-1-11: (1)(a) The governing authority of each municipality and county may set forth a comprehensive plan and may create, independently or jointly, a local planning commission with the authority to prepare and propose a comprehensive plan of physical development of the municipality or county.

Miss. Code Ann. § 39-7-22. Construction affecting potential landmarks – The Board may investigate whether historical sites will be adversely affected by any public construction before granting a permit for the proposed construction.

Miss. Code Ann. § 39-13-5: In order to establish historic districts, a county or municipality must first establish an historic planning commission, which will have the discretion to review applications proposing construction in an historic district. The Commission's decision whether to grant a certificate of appropriateness (permitting construction) shall be guided by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.



## Regulations-

Miss. Reg. 08 030 001: Permit Board means the Mississippi Environmental Quality Permit Board (Permit Board). The Permit Board is at the state level, as opposed to the county or local level.

Miss. Reg. 08 013 003, § 3125: Each permit issued by the Permit Board contains the inherent duty to mitigate adverse effects on the environment.

Miss. Reg. 08 030 005: For any project funded by the State Revolving Fund Loan Program (applies to wastewater treatment projects), one or more of the following environmental actions will be taken by the Department: categorical exclusion, finding of no significant impact on the environment, amendment to finding of no significant impact on the environment, environmental impact statement, reaffirmation of an environmental action, or no action.

Miss. Reg. 08 030 007: In order to obtain a National Pollutant Discharge Elimination System permit, underground injection control permit, state permit or water quality based effluent limitations and water quality certification permit, the Permit Board may require the development of, and approval of, Best Management Practices Plans addressing any activity at a facility which may impact the environment.

Miss. Reg. 43 000 041: Coastal Permits – Construction permits must contain a detailed description of the proposed construction and an environmental assessment, or an environmental impact statement that is sufficient for submittal to federal agencies.

Miss. Reg. 60 037 006: Each facilities plan must contain a description of the environmental impacts of the proposed project and any corresponding mitigative measures. In assessing an application, the Department will make an environmental assessment.

## Missouri

### Statutory Provisions:

Mo. Rev. Stat. 64.040: The county planning commission may make, adopt and publish an official master plan of the county to bring about coordinated physical development in accordance with present and future needs. The master plan shall be developed in order to, among other things, conserve the natural resources of the county. It may include, among other things, studies and recommendations relative to the location, character and extent of highways, parks, forests, wildlife refuges, dams, and projects affecting conservation of natural resources.

Mo. Rev. Stat. 65.662: The township planning commission shall have power to make, adopt and publish an official master plan of the township to bring about coordinated physical development in accordance with the present and future needs. The official master plan shall be developed to conserve the natural resources of the township, and may include, among other things, studies and recommendations relative to the location, character and extent of highways, parks, parkways, forests, wildlife refuges, dams, and projects affecting conservation of natural resources.

Mo. Rev. Stat. 253.415 – Local Historic Preservation Act: Each city, town, village and county may create a historic preservation commission, which shall have the authority, among other things, to review new construction and alterations proposed within the boundaries of a landmark or district; to prepare a comprehensive historic preservation plan, or a preservation element to a master plan; to integrate the preservation program into the local government for planning and zoning for land use; and to participate in the conduct of land use, urban renewal and other city activities affecting landmarks and districts.

### Regulatory Provisions:

Mo. Code Regs. Ann. 1 § 30-2.040 (C): All budget requests for Capital Improvement new construction projects valued at over a \$1,000,000 or for construction work on an existing facility with the estimated cost exceeding 25% of the replacement cost of the facility involved and exceeding a million dollars, will include an environmental assessment.

-“Construction” is work which substantially improves, increases value or capacity or extends useful life beyond that in the Standards of Existing Construction.

Mo. Code Regs. Ann. tit. 10, § 20-4.050: An environmental impact statement will be required when the director of staff determines that the project may have significant adverse impacts upon threatened or endangered species or their habitats or prime farmland.

## **Montana**

Mont. Code Ann. §§ 75-1-101 to 75-1-105; 75-1-201 to 75-1-207. Montana Environmental Policy Act.

The Montana Environmental Policy Act states that it is the state's policy to "preserve important historic, cultural, and natural aspects of our unique heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice." Mont. Code Ann. 75-1-103. (Source: Montana Code Annotated website 75-1-101 thru 75-1-105; 75-1-201 thru 75-1-220. [http://data.opi.state.mt.us/bills/mca\\_toc/75\\_1\\_1.htm](http://data.opi.state.mt.us/bills/mca_toc/75_1_1.htm) ).

All agencies of the state include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment a detailed statement on environmental impact of the proposed action, any unavoidable adverse environmental effects, and reasonable alternatives. 75-1-201. Though an EIS may be done on the issuance of a lease, permit, license, etc., the agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter (75-1 thru 75-3). 75-1-201.

A project sponsor may, after providing a 30-day notice, appear before the environmental quality council at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. 75-1-208. "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. 75-1-220.

Each agency has enacted its own rules and procedures implementing MEPA with its own definitions of "major action" and its own instructions for assessments of impacts and exclusions. For example, action is defined as "program or activity directly undertaken by the agency; a project or activity supported through a contract, grant, subsidy, loan or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency, either singly or in combination with other state agencies." Mont. Admin. Rules 4.2.313 (Dep't of Agriculture); 8.2.303 (Dep't of Commerce); 12.2.429 (Dep't of Fish, Wildlife & Parks); 17.4.603 (Dep't of Env. Quality); 18.2.236 (Dep't of Transportation); 32.2.222 (Dep't of Livestock); 36.2.522 (Dep't of Natural Resources & Conservation). Assessment contains analysis of impacts on terrestrial and aquatic life and habitats; water quality, quantity, and distribution; geology; soil quality, stability, and moisture; vegetation cover, quantity and quality; aesthetics; air quality; unique, endangered, fragile, or limited environmental resources; historical and archaeological sites; and demands on environmental resources of land, water, air and energy. Mont. Admin. Rules 4.2.316 (Dep't of Agriculture); 8.2.306 (Dep't of Commerce); 12.2.432 (Dep't of Fish, Wildlife & Parks); 17.4.609 (Dep't of Env. Quality); 18.2.239 (Dep't of Transportation); 32.2.225 (Dep't of Livestock); 36.2.525 (Dep't of Natural Resources & Conservation). The Agency must issue a public record of decision regarding the proposed action. Mont. Admin. Rules 4.2.329 (Dep't of Agriculture); 8.2.319 (Dep't of Commerce); 12.2.445 (Dep't of Fish, Wildlife & Parks); 17.4.629 (Dep't of Env. Quality); 18.2.252 (Dep't of Transportation); 32.2.238 (Dep't of Livestock); 36.2.538 (Dep't of Natural Resources & Conservation). There are also provisions for public notice, comment, hearings.

\*\* See 8.97.2102 where the Montana Board of Investments rules state that "the board has determined that the following programs and/or actions do not have a significant impact on the human environment, are primarily economic in nature, and therefore do not require the preparation of an EA or an EIS...(vii) the purchase of all federally guaranteed loans..."

## Nebraska

### • Statutory Provisions –

Neb. Rev. Stat. 23-114.02, 114.03, 174.05. Establishes requirements for each county's Comprehensive Development Plan

23-114.02 and 23-114.03 state that each county regardless of size or classification (Nebraska has different county classifications based on their rural or urban character) shall develop a Comprehensive Development Plan that shall include, among other elements, (1) a land-use element which designates distribution, location, and extent of the land uses for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land; (2) the general location, character, and extent of existing and proposed major roads, air and other transportation routes and facilities; and (3) the general location, type, capacity, and area served of present, projected, or needed community facilities including recreation facilities, schools, libraries, other public buildings, and public utilities and services.

The counties then must adopt proper zoning regulations consistent with the Plan that includes such specific purposes as reducing urban sprawl, preserving historic districts and buildings, and encouraging proper sanitation and water use.

23-114.05 establishes that any developer, public or private, that violates such a zoning regulation and Comprehensive Development Plan will be charged with a misdemeanor.

23-174.05 restates the requirements of the Comprehensive Development Plan but breaks down the specific requirements of the plan and adds that the Plan should include a land use plan that accounts for resulting population density.

## Nevada

### Statutes:

Nev. Rev. Stat. 277.200: The Tahoe Regional Planning Agency, when acting upon matters that have a significant effect on the environment, shall prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project.

"Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

Nev. Rev. Stat. 278.150: The planning commission shall prepare and adopt a comprehensive, long-term general plan, known as the master plan, for the physical development of the city, county or region.

Nev. Rev. Stat. 278.160: The master plan may include, as is appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, among other things, rivers and other waters, wildlife and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

Nev. Rev. Stat. 278.812: When an application for approval of the development or construction of a business or recreational establishment subject to the Nevada Tahoe Regional Planning Agency, has been submitted to the appropriate local authority, and the local authority has made its final determination of approval, the application shall be referred to the Regional Planning Agency for review as to environmental impact and effect. The governing body of the Agency shall adopt, among other things, all necessary ordinances, rules, regulations and policies for the determination of environmental impact and effect. Such ordinances, rules, regulations and policies shall include but need not be limited to criteria for determining the effect of each proposal upon the availability of services, public facilities and natural resources, and the capacity of the environment to tolerate additional development.

Regulations :

Nev. Admin. Code 445B.3363: An application for a permit to construct a facility emitting air pollution requires an environmental impact statement.

Nev. Rev. Stat. 278.870: Those applying to the Nevada Tahoe Regional Planning Agency (*appears to be matters concerning sale of state lands, forestry, and zoning and planning*) must submit materials sufficient for the agency to make an environmental assessment regarding the impact of the proposed establishment.

**New Hampshire**

Statutory provisions

N.H. Rev.Stat. § 676:8. The historic district commission shall review applications for building permits within the historic district.

Regulatory provisions

N.H. Code Admin.R. Pln 903.04. Applicants for a construction grant under the Coastal Program must include information on potential environmental impacts and a letter from the state historic preservation officer clearing the project for historic preservation purposes shall be required for construction projects.

N.H. Code Admin.R. Wt 202.01. There will be a hearing on an application for permit for wetlands project if project would result in significant environmental impact.

**New Jersey**

Statutory provisions

N.J.S.A. 13:9B-23. Consider environmental impact prior to approving permit for activity in freshwater wetland area. As a condition for permit, it is required that all appropriate measures be taken to mitigate adverse environmental impacts. (13:9B-13.)

N.J.S.A. 13:19-6. EIS required prior to permit for development along coastal area. Notice & hearing. A permit may be issued only upon finding it would result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies, it would cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region, it would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding region. 13:19-10.

N.J.S.A. 40:55D-111. If a zoning ordinance designates and regulates historic sites or districts, the governing body shall by ordinance provide for referral of applications for issuance of permits pertaining to historic sites or property in historic districts to the historic preservation commission.

N.J.S.A. 52:9Q-17. Capital City Renaissance Plan. Re: development in Trenton. Incorporates a land use plan element which "proposes strategies concerning conservation and improvement of the public environment, including streets, walkways, parks, and other public spaces; and sets forth proposals for the restoration and improvement of the historic areas, sites and structures."

N.J.S.A. 58:16A-68. Municipal flood control plans shall consider environmental impact on aquatic resources.

#### Regulatory provisions

N.J.A.C. 2:76-7.4. EIS submitted with proposed non-agricultural development project in agricultural development area.

N.J.A.C. 7:7-1.10. During the coastal permit program process, the Dep't of Env. Protection shall analyze the environmental impacts of the minimum beneficial economically viable use for the property. The Dep't will evaluate historic landmarks or other historic or cultural resources; whether it will adversely affect public health, safety and welfare, and wildlife and marine fisheries. Different levels of review for reconsideration of application.

N.J.A.C. 7:7-4.2. Permit applications for wetland or waterfront development shall include an EIS. May include notice, comment. 7:7-4.5.

N.J.A.C. 7:7-6.1. An EIS is required for all coastal project permit applications. 7:7-6.2 Contents of EIS including including such data as traffic analyses, stormwater management calculations, archaeological surveys, environmental resource inventories, habitat assessment, and detailed design specifications for the proposed construction.

N.J.A.C. 7:7A-4.1. Consider environmental impact when issuing permits for activity on freshwater wetlands. *See also* 7:7A-10.2; 10.6.

N.J.A.C. 7:7A-7.2. Standard requirements for all individual freshwater wetlands or open water fill permits include will not adversely affect habitats of endangered species, will result in minimum impairment to aquatic ecosystem, will not be likely to result in the destruction or adverse modification of a critical habitat, will not adversely affect a property which is listed or is eligible for listing on the National Register of Historic Places.

N.J.A.C. 7:7E-3.38. Endangered or threatened wildlife or plant species habitats. Development prohibited in these areas unless it can be demonstrated through an impact assessment that habitat will not be adversely affected. *See* 7:7E-3C.

This chapter (7E) sets forth the coastal zone management rules. It is "to be used primarily by the Land Use Regulation Program in the Department [of Environmental Protection] in reviewing permit applications" under various state statutes. 7:7E-1.1. This chapter applies to all waterfront development permits. 7:7E-1.2.

N.J.A.C. 7:7E-3.27. Wetlands development is prohibited unless found acceptable under the Freshwater Wetlands Protection Act Rules (7:7A). For wetlands not covered under this Act, development prohibited unless use is water dependent, no prudent or feasible alternative on non-wetland site, and will result in minimum feasible alteration or impairment of natural tidal circulation and natural contour or natural vegetation of the wetlands.

N.J.A.C. 7:7E-3.36. "Development that detracts from, encroaches upon, damages, or destroys the value of historic and archaeological resources is discouraged." New development in undeveloped areas near these resources is conditionally acceptable provided design is compatible.

NJAC 7:7E-3.39. Development adversely affecting critical wildlife habitats is discouraged unless minimal interference can be demonstrated, no prudent or feasible alternative location, and proposal includes mitigation measures.

NJAC 7:7E-3.46. Standards for development in wild and scenic river corridors. Development having a direct and adverse effect on outstandingly remarkable resource value is prohibited. Standards for acceptable development of bridges, docks, etc.

NJAC 7:7E-5B.2. Coastal planning areas. There are several types designated. If designated as a Coastal Rural Planning Area, policy objectives include: encouraging economic activities having minimal impact on agricultural resources, preserving large areas of farmland and open space, protecting critical resources including water resources and wildlife habitat, etc. If designated as Coastal Environmentally Sensitive Planning Area, policy objectives include protecting environmentally sensitive features by guiding development into centers, etc., and protecting sensitive natural resources critical to the maintenance of coastal ecosystems by maintaining large areas of undisturbed habitat, open space and undeveloped land.

N.J.A.C. 7:13-3.1. Applicant for project in flood hazard area requires description of short and long-term environmental impacts and describing the cumulative impacts of each upon the environment. The Department will not approve any regulated activity which it determines is likely to significantly and adversely affect the biota of the watercourse or its water quality including, but not limited to, adverse effects on potable water supplies, flooding, drainage, channel stability, threatened and endangered species of plants and animals or upon their current or documented historic habitats, navigation, energy production, municipal, industrial or agricultural water supplies and fisheries.

N.J.A.C. 7:13-4.1. Application for stream encroachment permit should include the effect of the project on public health, safety, and welfare; water quality and quantity; flood storage; existing and potential water uses; parks and/or preserves; vegetation, wildlife, and fisheries, including threatened and endangered species; all measures to be taken during construction and thereafter to reduce detrimental on-site and off-site effects of both construction and use of the structure in question; and adverse environmental impacts which cannot be avoided or mitigated.

N.J.A.C. 7:50-4.31. Pinelands Commission review of municipal or county approval of applications for development in certified municipalities in the Pinelands Area, to ensure that development will occur only to the extent that it is consistent with the objectives of this Plan, including planning and design elements so as to preserve and maximize the benefits to the wide diversity of rare, threatened and endangered plant and animal species and the many significant and unique natural, ecological, agricultural, scenic, archaeological, cultural and recreational resources found in the Pinelands Area.

N.J.A.C. 7:50-6.155. A cultural resource survey shall accompany all applications for development in a Pinelands Village or Town and applications for major development in other Pinelands Management Areas in order to determine whether any significant historic resources exist on the parcel. Survey shall include potential environmental impacts.

N.J.A.C. 19:3B; 19:4. Meadowlands development projects, environmental considerations, zoning regulations. Information about development plans in this area, wetlands assessments and impact statements, etc.

New Mexico -

- Statutory Provisions:

N.M. Stat. Ann. § 3-21-5 Establishing guidelines for municipality and county comprehensive plans.

§ 3-21-5 states that when counties create a comprehensive plan for zoning, such a plan should be designed to: (1) lessen traffic congestion, (2) secure safety from dangers such as fire and floods, (3) promote general health and welfare, (4) provide light and air, (5) prevent overcrowding of land, (6) avoid overcrowding of population, (7) facilitate provision for public works projects, and (8) control and abate the unsightly use of buildings or land.

N.M. Stat. Ann. § 3-21-10, 13 Enforceability of zoning ordinances

§ 3-21-10 states that zoning ordinances may be enforceable by the zoning authority as any municipal ordinance is, while § 3-21-13 allows county zoning to be enforceable as any county law is.

N.M. Stat. Ann. § 3-22-3 Establishing historic districts

§ 3-22-3 allows counties and municipalities to establish historic districts under existing zoning laws for the purpose of preserving, protecting and enhancing such historical areas and landmarks. It also enables counties and municipalities to adopt and enforce regulations within such a district relating to the erection, alteration, and destruction of those exterior features of buildings and other structures subject to public view.

N.M. Stat. Ann. § 18-6-8.1: The head of any state agency having jurisdiction over any land or structure modification shall afford the historic preservation officer a reasonable and timely opportunity to participate in planning so as to minimize adverse

## **New York**

New York State Environmental Quality Review Act (SEQRA)

New York Environmental Conservation Law §§ 8-0101 thru 8-0117.

"Project" definition nearly identical to CA definition. Preparation of environmental impact statement (8-0109) must occur for any project or action an agency proposes or approves which may have a significant effect on the environment. Must include alternatives and mitigating measures. Permit applicants may draft their own EIS for the agency. Draft EIS may be subject to public notice, possible hearing.

## **North Carolina**

N.C. Gen. Stat. §§ 113A-1 to 113A-13. Environmental Policy Act.

The North Carolina Environmental Policy Act states: "it shall be the policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic and cultural elements of our common inheritance." N.C. Gen. Stat. § 113A-3. (Source: North Carolina General Statutes web site 113A-1 to 113A-13 <http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?0113A> ).

Every State agency shall include in every recommendation or report on any action involving expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official of environmental impact, alternatives and mitigation measures. 113A-4. "Use of public land" means activity including the grant of a lease, easement, or permit authorizing private use of public land. 113A-9. "Actions by state agencies" include licensing, certification, permitting, the lending of credit, expenditures of public monies, and other similar final agency decisions the absence of which would preclude the proposed activity. 1 N.C. Admin. Code 25.0108. If there may be a major adverse change, the responsible official shall present the information to the Governor for review. 113A-5. Local governments are authorized to enact ordinances requiring developers to submit EIS for major development projects. 113A-8. "Major development project" shall include but is not limited to shopping centers, subdivisions and other housing developments, and industrial and commercial projects, but shall not include any projects of less than two contiguous acres in extent. 113A-9. Minimum criteria shall be set to determine whether EIS is required. 113A-8. Environmental document not required in certain specific circumstances involving general permits where there are separate environmental documentation responsibilities or regarding construction of power lines, sewers, etc. 113A-12.

The State Clearinghouse in the Department of Administration is responsible for coordinating review of the EIS. 1 N.C. Admin. Code 9.0501; 25.0211. Agency compliance can be met with an environmental assessment, or a finding of no significant impact, or an EIS. 1 N.C. Admin. Code 25.0401. A record of decision must be made on each EIS. 1 N.C. Admin. Code 25.0401. EAs

are sometimes required before permit applications will be considered complete. *See* 15A N.C. Admin. Code 7J.0204. Neither the regulations or the statute describes the protected resources. Could not find EA or EIS forms on state govt. website.

If a specific activity has been designated as categorically excluded from the provisions of NEPA then the requirements of this Chapter shall have been met for that activity. 1 N.C. Admin. Code 25.0402.

## **North Dakota**

Statutory Provisions :

N.D. Cent. Code § 11-33 Establishing county zoning guidelines

§ 11-33 states that counties have the power, if they choose to exercise it, to create zoning plans within their jurisdictions. However, § 11-33-02 states that such zoning regulations may not limit farming, ranching, or feeding operations. Counties have the ability to enforce their zoning regulations, if they choose to create them, under § 11-33-16 by appointing an officer or agency to administer enforcement.

§ 11-33-03 states that if a county chooses to establish zoning, it must create a comprehensive plan that is based on all or some of the following factors: protecting and guiding the development of nonurban areas; providing for emergency management; regulating the use, height, density, size, and location of residential, commercial, industrial, or trade buildings; lessening government expenditures; or conserving natural resources.

N.D. Cent. Code § 11-35-01 Zoning agreements county-to-county or town-to-county

§ 11-35-01 states that counties may create § comprehensive plans together, or with local municipalities instead of individually

N.D. Cent. Code § 40-47 Establishing city zoning guidelines

§ 40-47 states that municipalities as independent from counties have the power, if they choose to exercise it, to create zoning plans. Such regulations, if implemented, must be consistent with the following goals from § 40-47-03: lessening street congestion; providing for emergency management; promoting health and welfare; providing light and air; preventing overcrowding of land; avoiding population concentration; and facilitating public works projects.

## **Ohio**

Statutory provisions :

RC 1506.07. Permit must be obtained from the director of natural resources prior to any construction in the Lake Erie coastal erosion area.

Regulatory provisions :

OAC 901-2-05. Applying for grants in the farmland preservation system requires showing of a local comprehensive land use plan identifying areas for agricultural protection. Other criteria includes: "historic designation, or unique or exceptional scenic contribution."

OAC 1501-6-03. For construction permits for land in the Lake Erie Coastal Erosion Management Area, the Director of Dept of Natural Resources *may* require and environmental impact assessment of the proposed development. This assessment shall include potential impact upon air and water quality; the likelihood that the development, improvement or activity may affect historic, cultural and aesthetic resources; open space or recreational uses of the shoreline where increased access to the



shorefront is a particularly important concern; floral and faunal communities where loss of biological resources or threats to endangered or threatened species are of particularly important concern; potential impact upon wetlands, or other state resource waters.

OAC 3745-31-05. Director of Ohio EPA shall issue permit to install or modify and operate air contaminant source, solid waste disposal facility, infectious waste treatment facility, water pollution source, disposal system, land application of sludge, or public water system after considering adverse environmental impacts.

OAC 4906-13-07. Applications for electric generation facilities shall include information on land uses such as water and wetlands, croplands and estimate impact of facility on these land uses. Also include information on cultural impact such as "any registered landmarks of historic, religious, archaeological, scenic, natural or other cultural significance within five miles of the proposed site" and the facilities' impact on preservation of these landmarks.

## **Oklahoma**

- Statutes:

Okla. Stat. Ann. Tit. 27A § 2-5-112: In order to construct a new source of air contaminants, one must obtain a permit from the Department of Environmental Quality (unless the source is exempted).

Okla. Stat. Ann. § 2-6-401: Sewage Treatment System – No person shall construct or let a contract for any construction work of any nature without a permit issued by the Executive Director or State Commissioner of Health.

Okla. Stat. Ann. § 866.2: In any county authorized to form a cooperative planning commission, the cities within are empowered to adopt, amend, extend, add to or carry out a comprehensive plan, and may also perform any additional urban planning which is needed including, but not limited to, urban renewal plans, conservation plans and other planning work. The county is granted authority to establish zoning regulations, a building code and construction codes and a housing code; and is granted the authority to adopt, amend, extend, add to or carry out all additional elements of a comprehensive plan including, but not limited to, urban renewal plans and conservation plans.

- Regulations:

Okla. Admin. Code § 252:610-3-1: Any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, dredge or fill, or other activities, which may result in any discharge into, or pollution or alteration of the waters of the State of Oklahoma, shall first obtain a water quality certification from the Department.

## **Oregon**

- Statutory Provisions:

Or. Rev. Stat. § 196.850 (1): The Division of State Lands *may* grant general authorization for removal of material from the bed or banks of any waters of the state if those activities would cause only minimal individual and cumulative environmental impacts.

Or. Rev. Stat. § 197 Imposes a requirement on all counties to create comprehensive plans as the basis for coordinated land use regulations .

§ 197.175 states that city and county governments are responsible for local comprehensive plans consistent with state planning goals as released by the Comprehensive Planning Commission, as well as enacting zoning ordinances to implement those plans.

§ 197.015 defines “comprehensive plan” as a generalized and coordinated land use map and policy statement incorporating sewer and water systems, transportation, education, recreation, natural resources, and air and water quality management programs.

Or. Rev. Stat. § 215 Establishes the requirements for the county planning as enabled by the above § 197.

§ 215.055 states that the county plans shall be based on the following considerations: suitability of area for land use or development, characteristics of areas in the County, current land use in an area, trends in land use, density of development, property values, future economic development, access to particular sites, natural resources, and health and aesthetics.

§ 215.243 states that zoning will be used as well to conserve farmland and therefore preserve both its economic and aesthetic virtues

§ 215.515 states that the objectives of such county plans will include: preserving air, water, and land resource quality; conserving open space and scenic resource; providing recreational needs; conserving prime farm lands; providing orderly transition from rural to urban land use; protecting life and property from natural disasters; developing effective transportation networks; developing public works programs; and diversifying the economy of the state.

-Regulatory Provisions :

OR Admin. R. § 141-089-0205 (3): General Authorization to place or remove materials from state waters for wetland restoration and enhancement is granted upon a determination that the activity will cause only minimal individual and cumulative environmental impacts.

## **Pennsylvania**

Statutory provisions

53 P.S. 8004. Any agency charged by law or by local ordinance with the issuance of permits for the erection, demolition or alteration of buildings within the historic district shall issue no permit for any such building changes until a certificate of appropriateness has been received from the governing body.

58 P.S. 601.205. On making a determination on a well permit, consider the impact of the proposed well on public resources to include, but not be limited to, the following: publicly owned parks, forests, gamelands and wildlife areas, National or State scenic rivers, National natural landmarks, habitats of rare and endangered flora and fauna and other critical communities, historical and archaeological sites listed on the Federal or State list of historic places.

Regulatory provisions :

25 Pa. Code § 9.125. In watersheds with high quality streams the protection of stream quality and other environmental values goes beyond a concern for the immediate stream. Consideration must be given to the environmental impacts of land use development activities throughout the watershed.

25 Pa. Code § 245.235. An application for a site specific permit for installation of underground and aboveground storage tank systems shall include an environmental assessment including detailed analysis of the potential impact of the proposed facility on the environment, public health and public safety, including air quality, water quality, threatened or endangered species and water uses. The applicant shall consider environmental features such as recreational river corridors, State and Federal parks,

historic and archaeological sites, National wildlife refuges, State and Federal natural areas, prime farmland, wetlands, special protection watersheds designated under Chapter 93 (relating to water quality standards), public water supplies and other features deemed appropriate by the Department or the applicant.

## **Rhode Island**

- Statutory Provisions:

R.I. Gen. Laws § 45-23 establishes rules for Subdivision of land in accordance with the Comprehensive Planning and Land Use Act § 45-22.2

§ 45-23-26 mandates that each municipality will adopt land development regulations that conform to that municipality's Comprehensive Plan. ("Development" is defined as "the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any change in use, or alteration or extension of the use, of land." § 45-24-31)

R.I. Gen. Laws § 45-23-30

-local rules on all land development must take into account effects on the surrounding environment among other factors

R.I. Gen. Laws § 45-23-60

-local municipalities are required to have the approval authorities for all land development and subdivision regulations consider the environmental impact of the development in addition to other factors

R.I. Gen. Laws § 45-24.1 Establishes the Historical Area Zoning Act that gives municipalities the power to create historic districts and establish zoning regulations for construction and demolition with a Historic District

§ 45-24.1-3 states that in order to supervise these Historical Areas, municipalities may establish a commission to create and enforce Historic zoning regulations

§ 45-24.1-4 mandates that such commissions must publish and administer regulations that govern the remodeling, destruction, or construction of any buildings or projects in general within such Historical Areas. Also any owner wishing to construct, demolish, or remodel any property within a Historical Area must apply for a permit to do so from this commission.

R.I. Gen. Laws § 46-23-18.1

-any person or company wanting to construct a marina within two thousand feet of a shellfish "farm" or wanting to dredge within the tidal waters must apply for a permit with the Coastal Resources Management Council by submitting an environmental impact report among other factors.

- Regulatory Provisions :

R.I. Code R. 01 025 019

-before any modification of a historic building or a location in a historic district, the owner must contact the Rhode Island Historical Preservation and Heritage Commission and verify the restrictions placed on the location

R.I. Code R. 04 000 010

§ 300 – Activities governed by the Coastal Resource Management Council (CRMC)

-all applicants for new construction or expansion that could in any way impact coastal resources must show environmental compliance with the rules and regulations of the Coastal Resource Management Program. Especially of importance are energy generation, transfer, processing, or storage; chemical processing; minerals extraction; sewage treatment and disposal; or solid waste disposal. Also, applicants must show that their activity does not have the potential to impact the historical or archaeological significance of a location

\*activities that require the above procedures are located within 200 feet of the closest coastal landmark and include: subdivisions, cooperatives, and other multi-ownership facilities [of six (6) units or more]; any structure serviced by an on-site sewage disposal system servicing 2,000 gallons or more per day; any activity which results in the creation of 40,000 sq. ft. or more of impervious surface (parking lot); construction or extension of municipal or industrial sewage facilities or systems (not connections to individual homes); construction or extension of water distribution systems or supply lines (not connections to individual homes).

Selected inland activities that require CRMC assent are (1) energy generation, transfer, processing, or storage; (2) chemical processing; (3) minerals extraction; (4) sewage treatment and disposal; or (5) solid waste disposal.

R.I. Code R. 04 000 011

-local municipalities on coastal areas are not empowered to consider the environmental impact of activities on harbors. Instead, this is the duty of the state's Coastal Resource Management Council (CRMC).

R.I. Code R. 04 000 015

-the CRMC may identify any potential impact on the ecosystem early in the permit process and may request a more refined assessment and mitigation report

R.I. Code R. 04 000 016

-applicants for the following projects within an area designated as a Salt Pond area must submit an environmental assessment to the CRMC:

1. any construction with 200 feet of a coastal feature
2. any construction of a residential subdivision of 6 units or more
3. any development requiring over 40,000 square feet of a totally impervious surface
4. any hook-up or facility intending to deal with over 2000 gallons/day of sewage
5. all roadway construction
6. any construction affecting freshwater wetlands

R.I. Code R. 04 000 017 (Rule 8)

-all applicants for any construction in a freshwater wetland or within 50 feet of a river must submit a request for the CRMC to test and find if the construction will affect the wetlands, fee for the test depending on type of construction

R.I. Code R. 12 031 022

-no construction permit will be granted for any air polluting source other than a drycleaner unless the facility can show that there is no increase in ground level air pollution for certain contaminants (listed in the Rule)

R.I. Code R. 12 120 002 (Rule 19)

-all persons planning on building a sewage disposal system of over 2000 gallons/day must submit a formal environmental impact assessment to the Department of Environmental Management

## **South Carolina**

Statutes :

SC Code Ann. § 47-20-90. The South Carolina Department of Health and Environmental Control ("department") shall act on all permits to prevent an increase in pollution of the waters and air of the State from any new or enlarged sources, and to prevent the degradation of water quality. All permit decisions shall ensure that the waste treatment with the least adverse impact on the environment be utilized.

S.C. Code Ann. § 48-39-10

"Minor development activities" means the construction, maintenance, repair or alteration of any private piers or erosion control structure, the construction of which does not involve dredge activities.

S.C. Code Ann. § 48-39-10 – the definition of “critical area” is the same as for the regulations: “Critical area” means any of the following: coastal waters; tidelands; beaches; beach/dune system which is the area from the mean high-water mark to the setback line. This section indicates that beach/dune systems are those which face the Atlantic Ocean. (H) "Beaches" means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

S.C. Code Ann. § 48-39-30 (5)(D) Critical areas shall be used to provide the combination of uses which will insure the maximum benefit to the people, but not necessarily a combination of uses which will generate measurable maximum dollar benefits.

SC Code Ann. § 48-39-140: Permits must be obtained in order to utilize a critical area for something other than its explicit purpose. Critical areas are coastal waters, tidelands, beaches, or beach/dune systems. *See also* S.C. Code of Regulations R. 30-11.

SC Code Ann. § 48-39-150; See § 48-39-50 – “Applications for permits” includes, but is not limited to, applications for construction of erosion control structures. Other activities may include excavation and minor development activities, as defined below.

S.C. Code Ann. § 48-39-270: The beach/dune system includes all land from the mean highwater mark of the Atlantic Ocean landward to the setback line.

#### Regulations :

S.C. Code Ann. Regs. 7.1.1 The regulations in this Part establish procedures, criteria, and terms and conditions upon which the Department issues licenses for the land disposal of wastes received from other persons.

S.C. Code Ann. Regs. 7.2.7 "Disposal site" means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

S.C. Code Ann. Regs. 7.2.15 "Land Disposal Facility" means the land, buildings and structures, and equipment which are intended to be used for the disposal of radioactive wastes.

7.25.2 During the land disposal facility site construction and operation, the licensee shall maintain an environmental monitoring program to evaluate the potential health and environmental impacts during both the construction and the operation of the facility, and to enable the evaluation of long-term effects and the need for mitigative measures.

S.C. Code Ann. Regs. 10.1.1: The regulations in this part establish the procedures, criteria, standards, terms, and conditions upon which the Department will require a license or an amendment to an existing license for the establishment and operation of facilities for the interim storage of low-level radioactive waste generated within the state which were or will be routinely transferred for permanent emplacement in a licensed low-level radioactive waste disposal facility.

10.14.2: During the storage facility site construction and operation, the licensee shall maintain an environmental monitoring program to evaluate the potential health and environmental impacts during both the construction and the operation of the facility.

S.C. Code Ann. Regs. 10.2.6: "Storage facility" means any building or structure or part of a building or structure which meets the requirements of this part and is used for storage of low level radioactive waste.

S.C. Reg. 19-450: In order to determine whether to grant a permit for construction in navigable waters, the Department of Health and Environmental Control ("department") shall consider any adverse environmental impact the construction will have, any impact on endangered species, and any impact on historical sites.

S.C. Code Ann. Regs. 30-1: (14) Critical areas include any of the following: (1) coastal waters, (2) tidelands, (3) beach/dune systems and (4) beaches.

S.C. Code Ann. Regs. 30-1: (31) Master Plan - a document or a map prepared by a developer or a city as a policy guide to decisions about the physical development of the project or community. (This definition, by indicating that it will be set forth by a "developer or city," indicates that the developer could be private or public.)

S.C. Reg. 30-1: "Best Management Practices," or "BMPs" are measures taken to reduce environmental impacts.

S.C. Reg. 30-11: Applications for permits to develop in critical areas must contain an environmental impact statement. The department may also consider the impact construction would have on endangered species and historical sites.

## **South Dakota**

S.D. Codified Laws Ann. §§ 34A-9-1 to 34A-9-13. South Dakota Environmental Policy Act.

The South Dakota Environmental Policy Act authorized that agencies may prepare environmental impact statements. 34A-9-4.

(Source: South Dakota Codified Laws website, §§ 34A-9-1 to 34A-9-13,

<http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&FindType=Statute&txtStatute=34A-9>).

All agencies may prepare, or have prepared by contract, an environmental impact statement on any major action they propose or approve which may have a significant effect on the environment. 34A-9-4. "Environment" is the "physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character." 34A-9-1.

"Actions" include "new and continuing projects or activities directly undertaken by any public agency, or supported in whole or part through contracts, grants, subsidies, loans, or other forms of funding assistance from one or more public agencies; policy, regulations, and procedure-making; or the issuance by one or more public agencies of a lease, permit, license, certificate, or other public entitlement to an applicant." 34A-9-2.

A draft EIS is prepared, after which there is public notice and comment. 34A-9-6. Contents includes impact, alternatives, mitigation measures, etc. 34A-9-7. "When an agency decides to carry out or approve an action which has been the subject of an environmental impact statement, it shall make an explicit finding that the requirements of this chapter have been met and that all feasible action will be taken to minimize or avoid environmental problems that are revealed in the environmental impact statement process." 34A-9-10. An impact statement is not required if federal statement pursuant to NEPA is required. 34A-9-11.

Specific resources not enumerated. Permit applications request information regarding project effect on wildlife, recreation, aesthetic value, or threatened or endangered species, or wetlands.

## Tennessee

### Statutory Provisions:

[Tenn Code. Ann. §§ 13-3-101, 13-4-101](#): Local land use planning is entrusted to appointed municipal or regional planning commissions, while zoning power is squarely placed in hands of local legislative bodies.

Tenn. Code Ann. § 13-4-201: It is the function and duty of the commission to make and adopt an official general plan for the physical development of the municipality. The plan shall show the commission's recommendations for the physical development.

Tenn. Code Ann. § 13-3-301:

(a) It is the function and duty of a regional planning commission to make and adopt a general regional plan for the physical development of the territory of the region.

(b) The regional plan shall show the regional planning commission's recommendations for the development of the area covered by the plan, and may include, among other things, the location and extent of forests, agricultural areas and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities or the protection of urban development.

Tenn. Code Ann. § 13-7-401: The purpose of this part is to promote the educational, cultural, and economic welfare of the people of the state of Tennessee by enabling municipalities and counties to preserve and protect historic structures, areas and districts. Furthermore, it is the purpose of this part to strengthen the economy of the state and of the adopting governmental entities by stabilizing and improving the property values in historic areas, by encouraging rehabilitation and new construction and development that will be harmonious with the historic structures, areas and districts, and by preserving and rehabilitating buildings.

Tenn. Code Ann. § 13-7-407: (a) All applications for permits for construction, alteration, repair, rehabilitation, relocation or demolition of any building, structure or other improvement to real estate situated within a historic zone or district, shall be referred to the historic zoning commission or the regional historic zoning commission, which shall have broad powers to request detailed construction plans and related data pertinent to thorough review of the proposal.

### Regulatory Provisions -

Tenn. Comp. R. & Regs. § 0500-2-1-.01: Any municipality in Tennessee which undertakes to develop an industrial park must apply for and receive a Certificate of Public Purpose and Necessity.

Tenn. Admin. Code § 0500-2-1-.06 (j): Each application for a Certificate shall include a discussion of any environmental problems anticipated upon the project.

-Definition: "Industrial park" means land and rights, easements and franchises relating thereto, and may include adequate roads and streets, water and sewer facilities, utilities, and docks and terminals, as required for the use of industry, and such appurtenant land for necessary incidental use. "Industrial park" may also include a site for the establishment or location of a single industry

## Texas

### Statutory provisions

Tx. Natural Resources Code § 33.205(3). Requirement to comply with the coastal management program when agencies issue permits on coastal historic areas.

Tx. Parks & Wildlife Code § 26.001. A department, agency, political subdivision, county, or municipality of this state may not approve any program or project that requires the use or taking of any public land designated and used prior to the arrangement of the program or project as a park, recreation area, scientific area, wildlife refuge, or historic site, unless the department, agency, political subdivision, county, or municipality, acting through its duly authorized governing body or officer, determines that there is no feasible and prudent alternative to the use or taking of such land; and the program or project includes all reasonable planning to minimize harm to the land, as a park, recreation area, scientific area, wildlife refuge, or historic site, resulting from the use or taking.

#### Regulatory provisions

13 TAC 26.18. Permits for work on historic structures.

This involves permit applications for work on historic buildings, structures and their sites. Permits must be signed by "either the Texas Historical Commission's executive director, the director of the Division of Architecture, or their designated representative."

"Applicants" are "the controlling agency, organization, or political subdivision having administrative control over a publicly owned landmark or the owner of a privately owned landmark. Only the applicant may be issued a historic structures permit." § 26.5. Permit categories are: preservation, rehabilitation, restoration, reconstruction, architectural investigation, relocation, demolition, or new construction. § 26.22.

30 TAC 261.22. Guidelines for impact statements. Should include significant adverse impacts: disrupt historical or archeological sites; affect natural, cultural, or scenic resources; disrupt established communities or their development plans; result in deterioration of air or water quality, or flood protection; result in unallowable reduction of identifiable in-stream uses; endanger species of plant and animal life, or their habitat; significantly reduce productivity of the bay and estuary systems; or, contribute to a series of related projects that involve individually minor but collectively significant adverse impacts.

These are impact statements submitted by applicants requesting from the Commission on Environmental Quality an order, permit, license, or other approval. 30 TAC 3.2.

"The commission may require and will consider environmental, social, and economic impacts evidence as relevant in any hearing in which the commission is directed by law to consider such evidence or to determine whether any proposed project or permit is detrimental to the public interest or welfare." 30 TAC 261.1. These are the guidelines for what the statements should include whenever they are submitted to the Commission for review.

30 TAC § 297.46. Commission on Environmental Quality shall consider environmental impact when application for water rights. Habitat mitigation requirement. 297.53.

"Water right" is "right or any amendment thereto acquired under the laws of this state to impound, divert, store, convey, take, or use state water." 30 TAC 297.1. When Commission considers application, it may grant right if it finds it is not detrimental to public welfare. 297.46. In making this determination, Commission considers impact statement submitted with application. 297.46. The Commission shall consider the effects of granting the water right on the fish and wildlife habitats, including wetlands. 297.53.

## Utah

#### Statutory Provisions :

Utah Code Ann. § 10-9 establishes the rules for the Municipal land use development plans.



§ 10-9-301 states that all municipalities shall create a general plan based on the “present and future needs of the municipality” and “growth and development of the land within the municipality or any part of the municipality.” The plan may account for transportation, health, welfare, safety, sanitation, the protection of urban development, air quality, and historic preservation.

§ 10-9-302 states that when creating this plan, municipality planning commissions may include, among other things, (2)(c) an environmental element that includes “protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;” and (2)(e)(i) rehabilitation, conservation, or redevelopment for historic preservation.

§ 10-9-1002 any owner of real estate that violates this plan will be subject to legal proceedings and action; no building permit will be issued without conformation to the plan

Utah Code Ann. § 11-36-202

-the Impact Fee Act authorizes local counties and municipalities the right to demand a fee (a payment of money) imposed upon development activity (any new construction or expansion of a current facility that will increase demand and need for public facilities) as a condition of development approval (written authorization from a local political subdivision that authorizes the commencement of development activity). Such an Impact Fee *may* be assessed by local governments to pay for environmental mitigation due to the increased use of public facilities by the project

Utah Code Ann. § 17-27 establishes the rules for the County land use development plan

§ 17-27-201 states that each county shall establish a planning commission for land not incorporated into a municipality

§ 17-27-301 states that all counties shall create a general plan based on the “present and future needs of the municipality” and “growth and development of the land within the municipality or any part of the municipality.” The plan may account for transportation, health, welfare, safety, sanitation, the protection of urban development, air quality, and historic preservation.

§ 17-27-302 states that when creating this plan, county planning commissions may include, among other things, (2)(c) an environmental element that includes “protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources;” and (2)(e)(i) rehabilitation, conservation, or redevelopment for historic preservation.

§ 17-27-1002 any owner of real estate that violates this plan will be subject to legal proceedings and action; no building permit will be issued without conformation to the plan

Regulatory Provisions :

Utah Admin. Code R307-401

-any person intending to construct any installation which may pollute the air or expand a current polluting facility must submit for a permit which includes an emissions impact analysis. *See* Utah Admin Code R307-410 for specific requirements in the analysis

## Vermont

### Statutes -

Vt. Stat. Ann. Tit. 10 § 6081: (a) No person shall sell or offer for sale any interest in any subdivision located in this state, or commence construction on a subdivision or development, or commence development without a permit for land use and development. This appears to apply to any type of construction on a subdivision or development.

Act 250 – Vt. Stat. Ann. Tit. 10 § 6081: No person may commence construction or development on a subdivision or development without a land use permit.

-Exempt subdivisions or developments:

-Subdivisions exempt by the department of health after June 1, 1970

-Subdivisions with a bona fide permit issued by the department of health before June 1, 1970

-Subdivisions with a bona fide permit that was filed on June 1, 1970, and granted by August 1, 1970

-A development which is not also a subdivision, whose construction commenced before June 1, 1970, if construction was completed by March 1, 1971.

-A state highway whose hearing was held prior to June 1, 1970.

-A telecommunications facility which existed prior to June 1, 1977 and is defined as a development.

-Permits are required for substantial changes to exempt subdivisions or developments.

Vt. Stat. Ann. Tit. 10 § 6086(a)(1): Before granting a permit, the district commission or board shall find that the subdivision or development will not result in undue water or air pollution.

-(a)(8): The commission or board shall find that the development will not have an undue adverse affect on historic sites. *See also* Vt. Code R. 11 050 001 below.

-(a)(8)(A): The permit shall be denied if any party opposing the applicant demonstrates that a development or subdivision will destroy or significantly imperil any endangered species, and the environmental detriment to the public is not outweighed by the economic, social, or other public benefit.

-(e)(1): A permit will be granted for the extraction of earth resources such as minerals, so long as the applicant can show that it will not have an unduly harmful environmental impact, and that the land will be usable for another purpose after the resource is extracted.

Vt. Stat. Ann. Tit. 29 § 404: An application for a permit to encroach shall be filed with the department of environmental conservation. Encroach means to place or cause to be placed anything in lakes or ponds defined as public waters that will subsequently alter the land underneath the water, or to place a structure such as a boat dock beyond the shoreline of such public waters.

Vt. Stat. Ann. Tit. 10 § 1263. Discharge permits: If the secretary determines that the proposed discharge will not reduce the quality of the receiving waters and will not violate any applicable provisions of state or federal laws or regulations, he shall issue a permit permitting an individual to discharge waste that may adversely affect water quality into state waters.

-Discharge permits are required for the discharge of any waste which interferes with, passes through without treatment, or is otherwise incompatible with a works treatment plant, or waste which would have and adverse effect on that works or on water quality, into the following sources:

-State's waters

-An injection well

-A publicly-owned treatment works plant

### Regulations -

Vt. Code R. 11 050 001: Historic Preservation Review. When undertaking a project that may affect historic or potentially significant archeological resources, an applicant ( defined as “the property owner, developer of the project, or other person who

has applied for an Act 250 permit”) shall provide to the Division for Historic Preservation information regarding the environmental character of the project (among other information) sufficient to allow the Division to evaluate the project's potential for effect on a Historic Site, or on a potentially significant property or resource. *See also* 10 V.S.A. 6086(a)(8) above.

## **Virginia**

Va. Code § 10.1-1188

Virginia's requirement for submission of environmental reports is located in the Chapter of the statutes regarding the Department of Environmental Quality. Title 10.1, Chapter 11.1 (Source: Code of Virginia website <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC10010000011000010000000> ).

All state agencies, boards, authorities and commissions or any branch of the state government (excludes local governments) shall prepare and submit an environmental impact report to the Department on each major state project. 10.1-1188.

"Major state project" means the acquisition of an interest in land for any state facility construction, or the construction of any facility or expansion of an existing facility which is hereafter undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning, which costs \$100,000 or more. 10.1-1188. "Environment" means the natural, scenic and historic attributes of the Commonwealth. 10.1-1182.

The regulations address EIS requirements for oil or gas drilling operations. The environmental assessment must include information about cultural and historical resources, scenic resources, prime agricultural lands, wildlife, etc. 9 VAC 15-20-70. ["Historic properties" means any prehistoric or historic district, site, building, structure or object included in or eligible for inclusion in the National Register of Historic Places or the Virginia Historical Landmarks Register including any artifacts, records and remains that are related to and located within such properties. 9 VAC 15-20-10. "Natural heritage resources" means the habitat of rare, threatened or endangered plant and animal species, rare or state significant natural communities or geologic sites, and similar features of scientific interest benefiting the welfare of the citizens of the Commonwealth. 9 VAC 15-20-10. "Scenic resources" means features which characterize an area by giving it a special visual identity or which present unique vistas or landscapes, including but not limited to such features as designated or candidate state or federal scenic rivers, federal or state scenic highways or parkways, Virginia byways, and scenic values as recognized by local, state or federal governments. 9 VAC 15-20-10.]

Environmental impact report shall include impact on environment (specifically including wildlife habitat), alternatives, mitigation measures. 10.1-1182. The Department shall review report and submit to Governor with comments. Report is made public at this time. 10.1-1189. Approval of Governor required for construction of facility. 10.1-1190.

## **Washington**

Wash. Rev. Code §§ 43.21C.010 *et seq.* (Comprehensive) State Environmental Policy Act.

Washington's State Environmental Policy Act provides for environmental review of major actions significantly affecting the quality of the environment. Wash. Rev. Code §§ 43.21C.010 *et seq.*; *see* Washington Administrative Code 197-11. All branches of government, including state agencies, municipal and public corporations, and counties shall: Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on: (i) the environmental impact of the proposed action; (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented; (iii) alternatives to the proposed action; (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (v) any irreversible and ir retrievable commitments of resources which would be involved in the proposed action should it be implemented. RCW 43.21C.030.

Agencies (state and local) conduct environmental reviews of project applications and may require an environmental checklist to make its threshold determination. The environmental checklist requires information on the following: earth, soils, erosion; air emissions; impacts on surface and ground water; vegetation and plant and animal species, including any threatened or endangered species; energy for the project; environmental health hazards; noise (from traffic, construction, equipment, etc.); land and shoreline use; housing impacts; aesthetics impacts, views; light and glare; recreational uses; historic and cultural preservation; transportation; public services; utilities. 197-11-960. Environmental review consists of the range of proposed activities, alternatives, and impacts to be analyzed in an environmental document, in accordance with SEPA's goals and policies. WAC 197-11-060. The lead agency makes a threshold determination deciding whether a proposal has a probable significant adverse impact and thus requires an EIS, or issues a determination of non-significance. 197-11-330, -340.

Project action involves a decision on a specific project, such as a construction or management activity located in a defined geographic area. Projects include and are limited to agency decisions to: (i) License, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract (ii) Purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified. 197-11-704.

## West Virginia

### Statutory Provisions -

W. Va. Code Ann. § 8-24-16: A planning commission shall make and recommend for adoption to the governing body of the municipality or to the county court, a comprehensive plan for the physical development of the area within its jurisdiction. A county planning commission may prepare, and the county court is empowered and authorized to adopt, a comprehensive plan and zoning ordinance for either the entire county, or for any part or parts thereof which constitute an effective region or regions for planning and zoning purposes.

The comprehensive plan shall show recommendations for the development of the territory covered by the plan and may include, among other things, the general location, character and extent of waterways and waterfront developments, forests; the general location and extent of forests, agricultural areas and open-development areas for the purposes of conservation, food and water supply or the protection of urban development; a land classification and utilization program.

The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the area which will, in accordance with present and future needs and resources, best promote the health, safety, morals, order, convenience, prosperity or general welfare of the inhabitants, as well as efficiency and economy in the process of development, including, among other things, such distribution of population and of the uses of land for urbanization, trade, industry, habitation, recreation, agriculture, forestry and other purposes as will tend:

(2) To reduce the wastes of physical, financial or human resources which result from either excessive congestion or excessive scattering of population; and

(3) Toward the efficient and economic utilization, conservation and production of the supply of food and water and of drainage, sanitary and other facilities and resources

W. Va. Code Ann. § 29-8-4 (2): Prior to commencement of the development of Blennerhassett historical park, a summary report shall be submitted on the environmental impact on the area.

## Wisconsin

Wis. Stat. Ann. § 1.11

Wisconsin Environmental Protection act. Wis. Stat. Ann. § 1.11 (Source: Wisconsin Statutes website [http://folio.legis.state.wi.us/cgi-bin/om\\_isapi.dll?clientID=77439&infobase=stats.nfo&jump=ch.%201](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=77439&infobase=stats.nfo&jump=ch.%201) ).

All state agencies shall include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment a detailed statement on the environmental impact, alternatives of the proposed action. 1.11(2). "Action" means any final decision by the department to commence, engage in, fund, approve, disapprove, conditionally approve or otherwise carry out any activity, pursuit or procedure, including proposals for legislation, which may affect the quality of the human environment. Wis. Adm.Code NR 150.02(1). "Human environment" means the natural or physical environment, and the relationship of people with that environment. NR 150.02(13). Extensive listing of types of actions. NR 150.03. These actions are classified into "types" which determine the extent of environmental review. NR 150.03. For example, "Facilities and Building Construction" may fall under Type II, III or IV, depending on the type and cost of construction. NR150.03. The contents of an environmental assessment or EIS must include: the extent of short-term and long-term environmental effects including secondary effects and cumulative effects; particularly to geographically scarce resources such as historic or cultural resources, scenic and recreational resources, prime farmlands, threatened or endangered species or ecologically critical areas. NR 150.22.

The Department of Natural Resources issues a final decision on the EIS after public reviews and comment. NR 150.24.

## Wyoming

Statutory Provisions –

Wyo. Stat. Ann. § 15-1-601 through 611 establishes rules on city and town land use regulations and zoning

§ 15-1-601 allows each city and town to establish a zoning regulations that may affect land use, but “all regulations shall be made... with consideration given to the historic integrity of certain neighborhoods or districts and a view to preserving, rehabilitating and maintaining historic properties and encouraging compatible uses within the neighborhoods or districts.” § 15-1-601(d)(iv).

§ 15-1-610 states that “if any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure or land is used in violation of this article or of any ordinance or other regulation made under its authority,” the city or town may take any action to halt the above acts

Wyo. Stat. Ann. § 18-5 establishes rules for county development planning and zoning (HOWEVER, neither environmental concerns nor historical property are factors in county zoning regulations)

§ 18-5-105 states that “it is unlawful to erect, construct, reconstruct, alter or change the sanitary facilities of any building or other structure within the zone without obtaining a building permit.”

Regulatory Provisions –

Wyo. Rule Dept. of Env'tl. Quality-Air Quality-6-2(b)(i).

-any air polluting facility must apply for a permit that includes the nature and amount of the emissions and how they are to be controlled