

A STUDY OF THE REVIEW AND COMMENT PHASE
OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

by

David R. Howell
Graduate Assistant

Virginia Highway and Transportation Research Council
(A Cooperative Organization Sponsored Jointly by the Virginia
Department of Highways and Transportation and the University of Virginia)

Charlottesville, Virginia
October 1974

VHTRC 75-R4

SUMMARY

Since the enactment of the National Environmental Policy Act in 1969, there has been considerable change in the efficiency of the preparation and distribution of environmental impact statements (EIS). This study was an evaluation of the review and comment phase as part of the overall EIS process. From a survey of agencies involved in this phase, it was determined that the majority of problems derive from: 1) the sporadic flow of statements to agencies for review; 2) the shortage of review staff; and 3) the complexity of some projects. An analysis of the review process showed that in part the difficulties are due to the "segmented" structure of the overall system. The lack of short-term flexibility and long-term adaptability are seen as the symptoms of this segmented system.

A STUDY OF THE REVIEW AND COMMENT PHASE
OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

by

David R. Howell
Graduate Assistant

INTRODUCTION

In the past five years, since the initiation of federal guidelines requiring the preparation and distribution of environmental impact statements (EIS's) for all federally funded highway projects, there has been considerable change in the efficiency with which this process is performed. While in the beginning difficulties existed primarily with the research and preparation aspects of the process, these were reduced rapidly and thoroughly from the onset. With the release of various memoranda from the Department of Transportation (e. g. PPM 90-1, 90-2, 90-7, 20-8)⁽¹⁾ and the increasing application of advanced technological capabilities, the production of environmental impact statements soon outgrew the existing system of distribution.

Two years ago a study was undertaken to evaluate the distribution of the EIS in its "review and comment phase."⁽²⁾ This study was basically educational in its perspective; it illuminated the review and comment phase as an independent process and described some of the particular problems encountered by individual agencies. In discussing the early shortcomings of the distribution of the EIS for this phase, the report states:

The draft statement leaves the originating agency and enters a veritable jungle of federal, state and local offices for review. Initial lack of coordination between these offices has led to redundancy and contradiction in comments on statements. Problems in staffing and misunderstandings of responsibilities have caused costly delays in projects, because the draft statement has not been processed in time.

At the time the aforementioned report was concluded, there had been some improvement in the described conditions of the review and comment process. However, several distinctive problem areas still existed. Briefly, these areas may be summarized as one primary type of problem--overburdening. Some causes of this were identified as: newness of the activity that resulted in disorganization; inadequate staffing and lack of funds; the retroactive nature of the 1969 National Environmental Policy Act, which

created an immediate backlog of statements for review; the piecemeal fashion in which statements were submitted; and nonexistent or imprecise evaluation standards, which slowed the evaluation process and hindered the use of negative declarations. In addition, the 1972 report indicated that there had also been a lack of knowledge at the state level with regard to the negative declaration that resulted in its infrequent use and an inadequate system of interagency communication.

The present study is intended to fulfill the same goals as the investigation of 1972; that is, it is an updated evaluation of the review and comment phase in the EIS process, geared primarily toward problems, present or potential, particular or systemic. The first part of this report contains a brief discussion of recent changes in the general EIS process. While this might appear peripheral to the particular focus of the report at first glance, it is essential since much of the streamlining of the EIS process has been a result of ad hoc procedural revision. Next presented are the results of a survey of various governmental agencies concerning their procedures and problems in reviewing environmental impact statements. The last part gives a brief analysis of the current EIS review and comment phase.

BACKGROUND

While the initial procedural outlines provided for the production and distribution of the EIS were reasonably precise, the ability of the specified agencies to carry out and coordinate these procedures was somewhat deficient. PPM 90-1 had designated the appropriate mechanisms and agencies to be involved in the review and comment phase by September of 1971. Paragraphs 2c, 2d, 6c, and Appendix G of that memorandum are reproduced here as Appendix A. Figures 1 and 2, taken from Wade, illustrate the EIS production process and the EIS distribution schedule, respectively. For a detailed description of the basic production and distribution system the reader is referred to the DOT's PPM 90-1, PPM 20-8, IM 50-1-70, and Wade.

In an effort to improve and standardize the quality of environmental impact research, and to efficiently organize the EIS process, the Federal Highway Administration issued PPM 90-4. This memorandum called for the submission of an Action Plan, written by each state highway agency, which "...describes the organization to be utilized and the processes to be followed in the development of Federal-aid highway projects from initial system planning through design "(PPM 90-4, par. 6. a.). Of particular interest here is the requirement that the highway agency identify:

The processes through which other State and local agencies, government officials, and private groups may contribute to reaching decisions, and the authority, if any, which other agencies or governmental officials can exercise over decisions. (par. 13. b.)

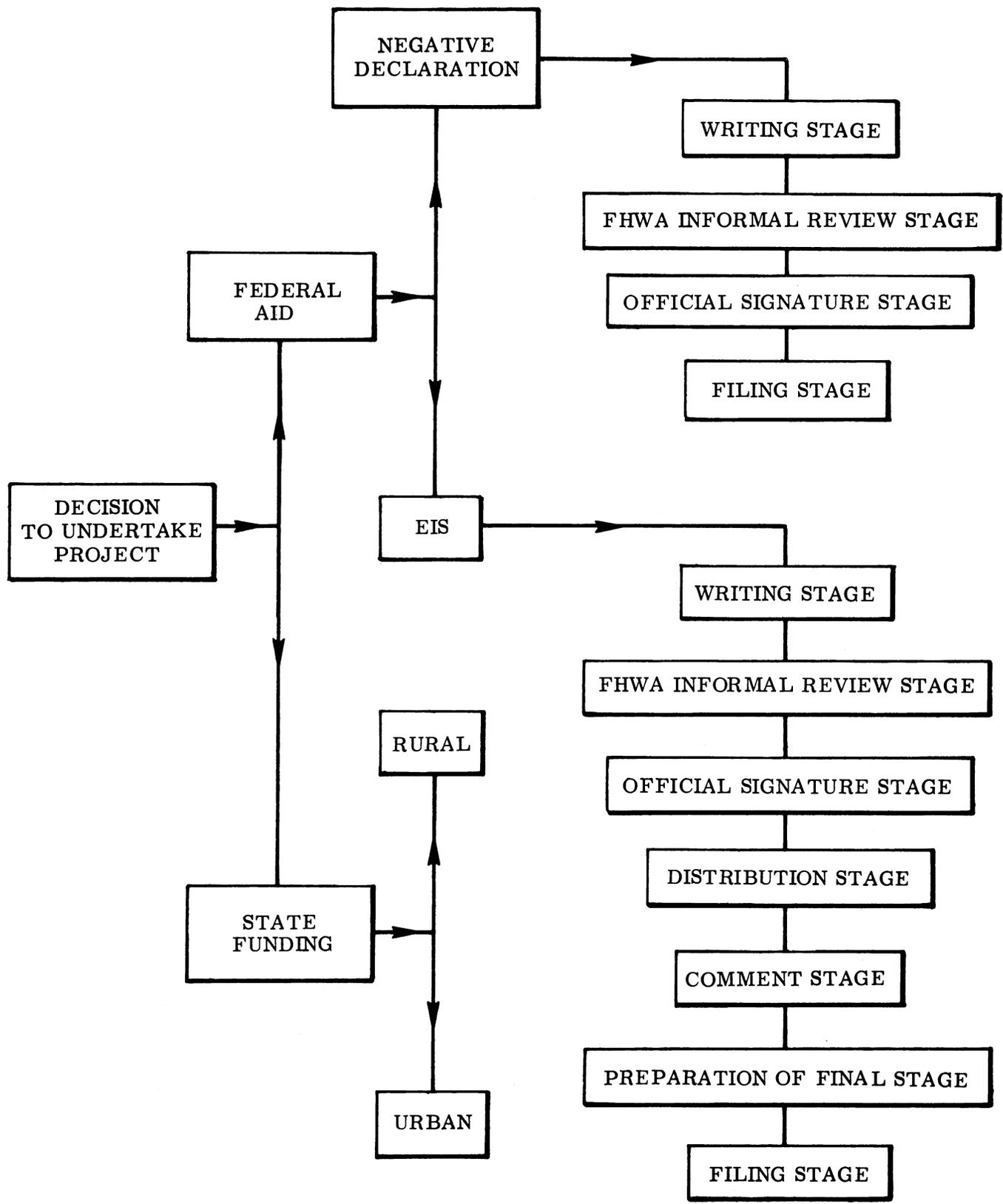


Figure 1. EIS production.

Further, the memorandum stipulates that the highway agency shall identify its planned procedures which are designed to ensure that information concerning environmental impact is developed with the staffs of local agencies and concerned citizens, and that other agencies and the general public have this information available early in the study.

The development and implementation of Virginia's Action Plan aided considerably in the improvement of the review and comment process. Many of the benefits have come as an indirect result of the Action Plan rather than from it directly. In fact, the system for circulating impact statements has, in a formal sense, changed little since PPM 90-1. Some practical gains, for instance, have been derived from the introspection required of the Virginia Department of Highways and Transportation in the production of the Action Plan itself. In complying with PPM 90-4, the coordination and organization needed to develop the Action Plan became the first step in an ongoing series of similar efforts necessary for the implementation of that plan.

Another indirect or secondary benefit of the development and implementation of the Virginia Action Plan results from the establishment of a system of communication and cooperation concerning highway planning between state agencies and also between state and local offices. While the system was originally established in response to the Bureau of the Budget memorandum A-95 of 1969, the use of this system for highway concerns was reemphasized with the writing of the Action Plan. In the recent past, with the elimination or reduction of many of the problems discussed in Wade's 1972 review and comment phase report, the potential of this "clearinghouse" system is now being realized. The effect of this increased participation is threefold:

- 1) Agencies now are sometimes involved with, or knowledgeable about projects before they receive impact statements for review and comment, which, in essence, allows more time for considering difficult cases;
- 2) agencies may provide counsel to the originating agency during the draft preparation phase, thus reducing the possibility of error or redundancy and
- 3) agencies which are not frequently involved in the EIS process may be more readily and assuredly aware of projects that do concern them.

Consequently, there is both more reliability and more flexibility in the total system than previously, and in this sense the review and comment phase has become more efficient. A discussion of the A-95 process is reproduced from the Virginia Action Plan here as Appendix B, and flow charts illustrating the place of both the A-95 process and the review and comment phase in the total project planning process are presented as Figure 3.

FLOW CHART NO. 5A
TYPICAL
PROJECT DEVELOPMENT
PROCESSES

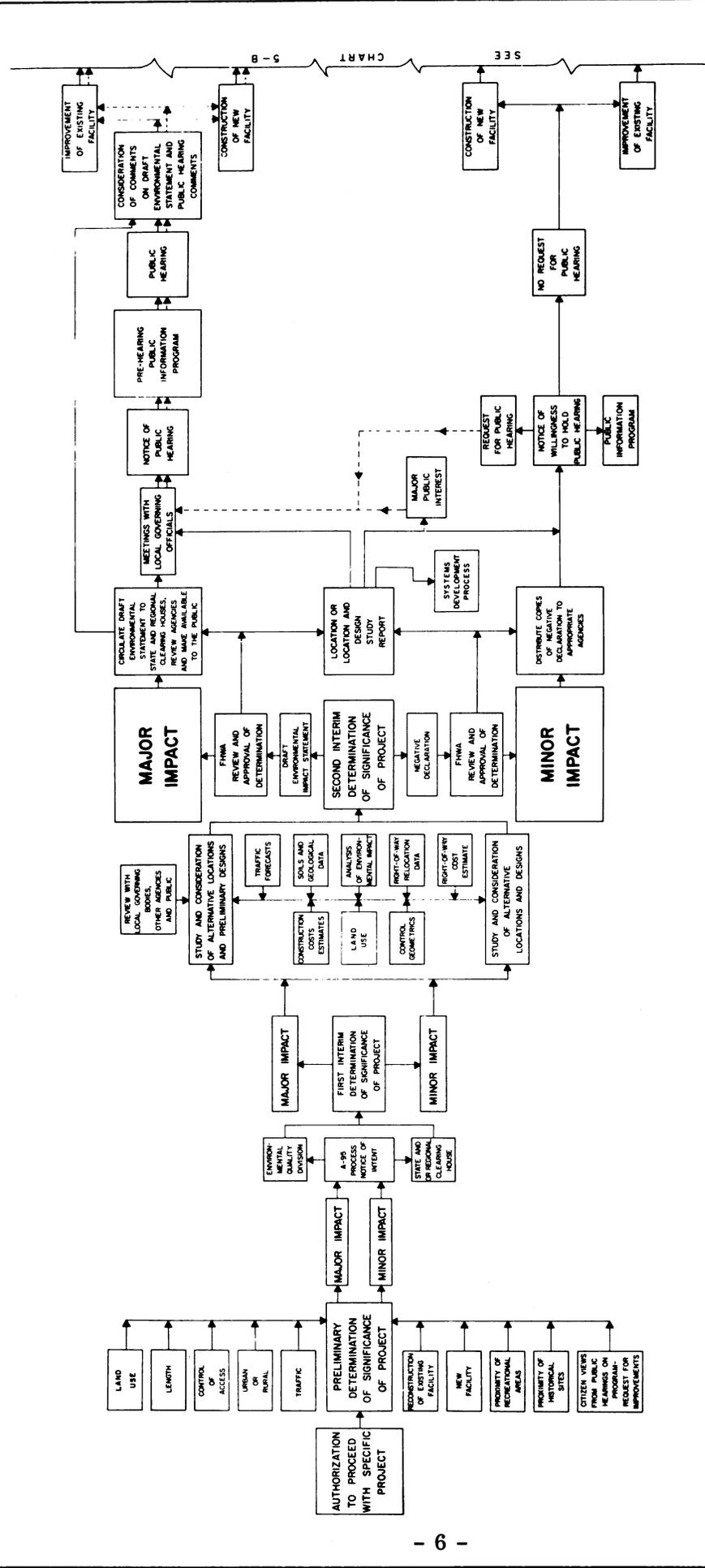


Figure 3. A-95 process and review and comment phase.

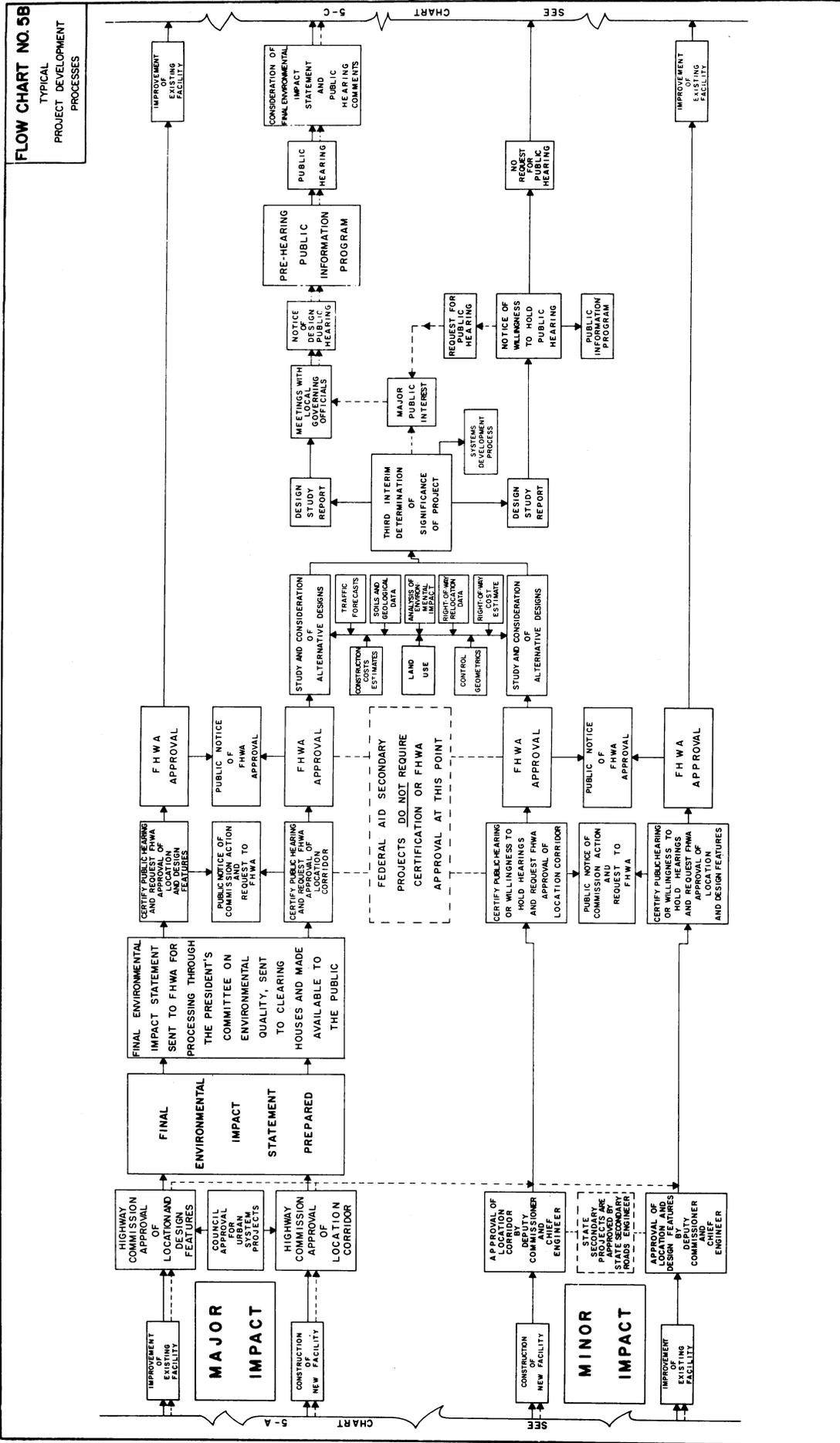


Figure 3 continued.

FLOW CHART NO. 5C
TYPICAL PROJECT
DEVELOPMENT PROCESSES

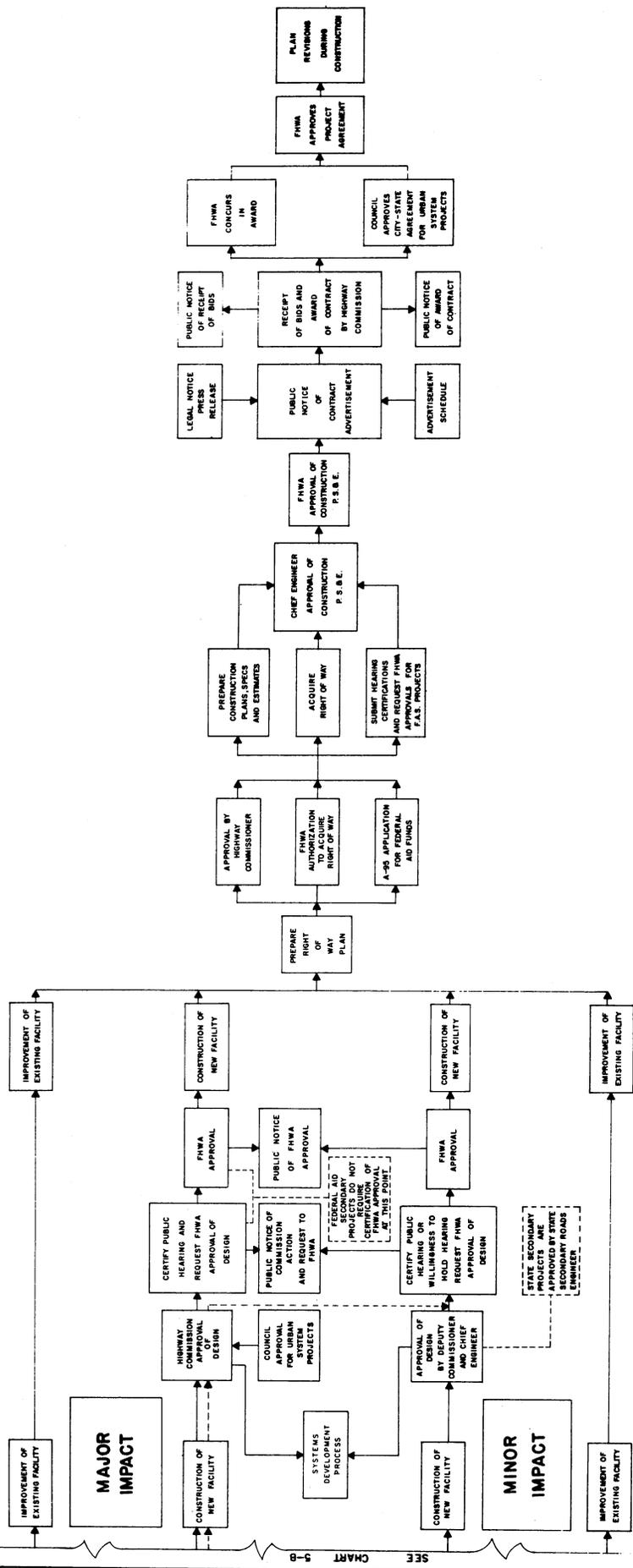


Figure 3 continued.

SURVEY RESULTS

Although much improvement has been made in the quality of environmental impact statements and the efficiency with which they are handled, it is apparent that some aspects of the distribution and review system remain in need of improvement. The survey conducted for this study was designed to bring together as a unified body of information the major difficulties encountered by various agencies involved in the EIS review and comment network.

Nearly all of the agencies surveyed have maintained the same internal system of review as reported in the Wade study.* For a more detailed description of particular review processes, the reader is referred to Part II of that publication. With regard to the few minor changes which have been implemented since 1972, it may be said that in every case the basic staff organization remains unaltered. Specific changes have been made, however, in the size of the staff within several agencies, and in the professionalization of many of them. The need for well qualified staffs will continue to be an important issue as the complexity of environmental analysis increases. Hence, most agencies may be expected to continue this recent trend well into the future (see Appendix C).

Some agencies, however, are still in need of additional staffing. This need is especially noticed by agencies which are only occasionally, or at least not continuously, presented with statements. Under circumstances where several projects are being reviewed by them during the same time period, it was reported that insufficient staffing was indeed a problem.

A general problem closely related to the lack of staff is that of the quantity of statements submitted to individual agencies for review. Responses varied on this issue, and the consensus was that under ordinary circumstances quantity is not an insurmountable difficulty. However, review staffs are not maintained to accommodate peak periods of activity, but on the basis of average influx. Therefore, during some periods the problem of overburdening due merely to additional workloads does occur.

The difficulties associated with this type of overburdening in the review process are not recurring ones for most agencies. Within some agencies it is encountered often, however, and among these one finds an explanation which derives from input originating outside the system as it is defined in this investigation. The common denominators underlying agencies afflicted in this way are: 1) they are also regular recipients of impact statements concerning non-highway projects; and 2) they are those whose interests are so diverse that they might be responsible for multiple portions

* There is one exception here. The Governor's Council on the Environment is no longer involved with statements on highway projects.

of statements written concerning different aspects of a single large-scale project. The federal agencies are particularly susceptible to peak period overburdening, but some state agencies whose realm of interests is not bound by locale or site characteristics also have encountered it.

With regard to the quality of impact statements from Virginia, an overwhelming majority of the federal agencies consulted said that no difficulties have been noticed in the recent past. In fact, several spokesmen praised the Virginia Department of Highways and Transportation for its rapid and complete compliance with changing evaluation standards. They noted that the Environmental Quality Division and other agencies consulted during the writing stages were well qualified and were producing good impact statements. In addition, one agency commented on the continuing improvement of Virginia statements, saying that it was evident that the Department was not "just trying to get by".

Most state agencies in Virginia also responded favorably to the content of the environmental impact statements received for highway projects. Among the comments, three particular trends may be noted as representative: 1) adequate and reliable data; 2) good evaluation measures; 3) overall thorough and professional nature of statements. One of the reasons cited for the high quality of draft statements is the practice of consulting relevant agencies about anticipated problems during the research and writing phase. This seems to prevent costly errors and delays which might otherwise occur on some projects, while also serving to exercise communication networks and enhance intragovernmental relations.

There were a few less favorable comments offered about Virginia impact statements. Those which were discussed all involved rather specific aspects of situations in which some difficulties had recently been encountered. One agency reported that occasionally there were problems in Virginia statements with the data per se. These were not errors of commission, but of omission, and appeared to be easily correctable. Another agency suggested that too few environmental impact statements were being written about natural waterways. This problem is, of course, not really one of quantity, but of the interpretation of regulations or the definition of physical features. In either case, it is a situation which may be easily remedied by intraagency advisement.

A third observation in this category is one which was reported in the past tense and may no longer exist. This observation was that in certain special cases where the preparation of research on a project was done by consultants rather than entirely as an in-house effort, some inconsistency was noticed in the content of the statement. The problem, however, seems to be neither persistent nor serious.

Several other areas of difficulty in the past should be mentioned here although none seem to be significant at the time of this writing. One important topic is that of knowledge of the environmental impact statement process. In the past it was reported that some agencies were not aware of the existence of negative statements, and that within some agencies staff members were not experienced enough to efficiently perform their new duties independently. Time and experience has eliminated both of these problems almost entirely, and it may be said that while for some individuals one or the other might be applicable, in a functional sense they do not exist in the system.

The need for and granting of deadline extensions in the reviewing of impact statements were also frequent problems early in the development of the EIS process. Through experience and the revision of standards and procedures, these have ceased to be troublesome. This is not to say that extensions are not requested, or no longer are granted. Instead, the current situation occasionally necessitates the granting of time extensions to some agencies. Generally, the agencies in need of more time for review and comment are those falling into the group which have sporadic peak periods or multiple responsibilities. The number of extensions requested has been reduced considerably, however, and those which are made are granted without complication.

A final problem, and one which had been serious in the past, is that of local agencies and some state agencies not receiving statements for review when they were indeed interested. This lack of communication was not frequent, but should never have been allowed to occur at all. The fact that it did occasionally occur is illustrative of the diminishing efficiency within a large-scale organizational network as information passes through many channels away from its source. None of the agencies reported difficulties with this problem at the present time. Experience with the EIS system and the increased communication between agencies prior to and during the early states of project development may be accredited with its alleviation.

ANALYSIS

Looking briefly over the development of the environmental impact statement, and the process utilized in the review and comment phase of its life cycle, it can be seen that there exists throughout a fundamental element of continuity. This is the relationship between the required content of the document itself and the organizational structure necessary to review it. As the environmental standards have become more strict, the relevant definitions have become more precise, the evaluative measures more accurate, and the impact statement more complex. All of this, of course, has not necessarily occurred constantly, nor has it occurred constantly, nor has it occurred consistently, but historically the trend has followed this pattern. Not surprisingly, the net result has been an increase in both the quantity and quality of environmental impact statements.

During the earlier years of its history, the EIS review process suffered one major symptom; the system was overloaded. The causes of this problem were numerous and varied, ranging from insufficient formalization of environmental standards to common inexperience. As seen in the survey, and as expected, the severity of this problem has been reduced through time to more manageable proportions. Moreover, the problem has diminished, not as a result of blind luck but because its causes were identified and corrected. Those causes which seem to be less easily eliminated are now more easily recognized and may be dealt with accordingly.

Several specific kinds of difficulties are still present, although they are ordinarily somewhat under control. Included are: 1) the sporadic flow of statements to agencies for review; 2) the shortage of staff personnel, and 3) the great complexity of some projects. All of these may potentially cause overburdening in the system. In turn, this overburdening often has a direct result; it hinders the ability of the agencies to complete their review within allotted time guidelines. Ultimately, then, the difficulties cause delays in project schedules; delays which are costly both in terms of money and in terms of the momentum needed for generating full inter-agency and public participation in the project development. Extremely slow progress in the life cycle of a project allows a breakdown of communication which discourages active participation and encourages suspicions as to the reasons for the delay.

These same problems, nevertheless, must be considered inherent in the EIS system as it is now structured. The fact that they have been shown to produce delays, have been isolated and their causes identified, and have been partially alleviated, does not imply that they are no longer real problems. Nor does it mean that they cannot be further eliminated. They do exist because they are built into the system.

Considered now is the second half of the relationship between the impact statements and the system through which it flows. It has been noted that as the statements have increased in volume and sophistication, the various agencies have responded to this change and adapted themselves accordingly. But it is only at this level that adaptation has taken place. There have been no significant changes equivalent to this adaptation which transcend the individual agency; that is, the organizational structure and distributional process in the review and comment phase have remained essentially unaltered. While PPM 90-1 explicitly provided a framework for both production and organization, since it was itself a derivative of previous memoranda its implementation was made within the already existing organizational structure.

By examining the review and comment phase with this point in mind, one may identify what it is that remains problematic in the distribution of environmental impact statements. Basically, it is that the participating agencies are separate from each other in interests and responsibilities. Given the fact that there are, and will continue to be, variabilities in the size, complexity, and number of statements, it would seem logical that a coordinated effort would expedite the flow of statements considerably. Yet, at present there is only a nominal amount of contact between certain agencies with similar interests in certain impact statements. In fact, it rarely occurs unless it is absolutely necessary. It is acknowledged, moreover, that the communication which does occur is extremely useful. What the problem really amounts to is the natural tendency toward separation of the individual agencies and the inability of the review process itself, in its formal, segmented stages, to provide links between the agencies which would enhance efficiency.

This difficulty may be described as manifesting itself in two ways: structurally, and processually. The former involves the nature of the inter-agency relationships and connections, the latter regards the ability of the system to perform most efficiently its assigned task, i. e., reviewing environmental impact statements. It must be remembered that the primary cause, in addition to the ultimate effect, of these two aspects of the problem is essentially the same. They are presented independently here only for the purpose of exposing the problem more fully than if it were approached from a single perspective.

Structurally, the review and comment phase operates within a set of agencies which have been independently organized for the purpose of handling the EIS review for their respective branches of government. Each has different interests and priorities, naturally, and therefore each reacts independently to the various review problems which arise.

Under ideal circumstances there is little doubt that separatist system would efficiently and consistently accomplish its objectives. However, it does not operate within an ideal environment. As previously noted, the content and quality of the incoming statements are not consistent. Many agencies have roles within other organizational networks in addition to that of the EIS review and comment phase. Even the volume of input is unpredictably variable.

The solution to these problems just mentioned is flexibility. Many agencies are, indeed, flexible with respect to their own duties; but the kind of flexibility suggested here is that which smooths the rough spots out of the review path of any particular project. This flexibility, then, should be built into the total review process. By instituting some mechanism which would remove some of the "unpredictables" in the process, each individual agency could be relieved of the burden of constant adaptation to short-term fluctuations; that is, the system might be altered or reinforced so that the shock of fluctuation would be absorbed or diminished by the time it actually reaches the individual agency.

Two simple methods for alleviating this problem come to mind. Neither is complete in its coverage of the total range of difficulties, but then neither requires tremendous alteration of the review structure. The first is the use of an "early warning system" to provide agencies with information on the nature of statements prior to their receipt and the beginning of the time guideline. This might be implemented by use of either recorded telephone briefs which outline upcoming statements or short inter-agency memos distributed to warn particular agencies that a certain statement might require special attention by their offices.

Another possible means of smoothing the review process is a system for coordinating priorities among agencies. For instance, if statements for Project 1 and Project 2 are received by Agency A and Agency B simultaneously, and both are somewhat complex, then it would be most efficient for both A and B to undertake review on the same project first, or give priority to the same project first, so that in the event that extensions of time guideline are necessary, the likelihood would be that both agencies would request more time for Project 1, each having finished 2, rather than both 1 and 2 being held up due to lack of coordinated effort.

The difficulties manifested processually may be best explained in terms of the sequence of operations performed on the EIS, and the connections between these operations. Each statement is composed of numerous parts which are prepared by various sections of the originating agency, combined and printed, and then distributed to all of the reviewing agencies. After a defined period of time, they are returned to the originating agency for consideration of the comments and the preparation of a final statement. Since each of these operations takes place within separate operational units, there exists a minimum of communication throughout the process as to the status of a particular impact statement or the nature of any specific problems which either might be, or have been, encountered. There is no built-in linkage between operational units beyond the transmission of the document itself. The performance of each operation--writing, distributing, reviewing--is formally separate from all others; the process is segmented. It is granted that informal connections between agencies do exist, but these exist for other reasons; as a response to severe and particular complications on a former project or as a derivative of communication lines sometimes established in other contexts. However, there is no formal mechanism for maintaining communication between agencies involved sequentially with the same aspects of a particular statement. For instance, if a reviewing agency has a question about the why or how of an impact evaluation on a particular statement, there are no formally established means for the reviewing staff member to contact the relevant researcher in the originating agency for clarification. If the contact is made, it is only with special effort; if not, there may be considerable unnecessary time spent by the reviewing agency on that statement. In addition, there may at times be a need for the originating agency to know the status of a particular statement while it is being reviewed. This might occur either because it is suspected of being problematic to some reviewing agencies, or in some way the originating agency might be able to circumvent red tape by knowing immediately the reaction of the reviewing agency to a certain type of impact or method of evaluation. These examples, are of course, hypothetical, but the point remains that there is some need for communication, especially concerning the content of impact statements, between the various units in the review process.

CONCLUSION

Returning to the thread of continuity, one may now evaluate the adaptability of the review and comment phase to the changing demands made of it. In short, it appears that the system now utilized in this phase has done all of the adapting it is going to do. It has already reached the limits of its capabilities to perform its designated functions. These limits are defined by the structure of the EIS system, and the structure as it stands now contains a certain amount of inflexibility. If the present problem with delays is a tolerable one, and if no further changes are imposed from outside the system, then there is no urgent need for alteration of the system. If, however, further improvement in the efficiency is desirable and if the system is to be expected to continue to adapt to the increasing sophistication and complexities of environmental impact analysis, then some methods of adjustment should be investigated.

It is not the purpose of this study to recommend specific major changes that might be made within the review and comment phase which would increase the adaptability of the system and, hence, its overall efficiency. However, one brief remark to this effect might prove beneficial as a launching point for further inquiry into this problem. Short of reorganizing and streamlining the entire EIS system, which at present is a much too costly and probably unnecessary venture, there is one potential solution of a relatively simple nature. This would be the development of better formally instituted lines of intra-system communication to provide a framework of inter-agency connections and obligations. The result of this measure of change would greatly enhance the review and comment process by connecting functionally related operation units and increasing efficiency throughout the entire organizational structure.

Appendix A
Federal Highway Administration (DOT)
Excerpts from PPM 90-1

PPM 90-1

Par. 2c

Par. 2c. Section 470f, Title 16, United States Code 2/ provides that the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.

Par 2d. Section 1857h-7, Title 42, United States Code (popularly known as Section 309 of the Clean Air Act of 1970 - P. L. 91-604), provides:

"(a) The Administrator (Environmental Protection Agency) shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any . . . (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which Section 4332(2)(C) of this Title applies. . . Such written comment shall be made public at the conclusion of any such review."

Par. 6c. The draft environmental statement, including necessary Section 4(f) information when required, is to be circulated by the HA to the appropriate agencies (see Appendix G) for comment, and made available to the public not later than the first required notice of location public hearing (30 to 40 days before date of hearing) or notice of opportunity for a public hearing as set out in PPM 20-8 (see Appendix H) If the highway section qualifies for exemption from public hearing procedures, a draft environmental statement, if required, (including necessary Section 4(f) information) is to be prepared and circulated for comment, and made available to the public as early as practicable. Regardless of whether or not there is a public hearing, a notice should be placed in the newspaper advising the public that the draft environmental impact statement is going to be circulated for review and comment. The notice should include information on where the statement is available for review and how copies can be obtained.

(1) The HA shall request a determination of significance from the Section 4(f) lands agency and include the letter requesting such determination and the determination, if received, as exhibits to the draft statement.

(2) An additional location or design public hearing will not be required for the sole purpose of presenting and receiving comments on the draft environmental statement for those projects which were processed in accordance with procedures in effect at the time.

(3) The comments received on the draft statement are to be made available at the HA office for public review.

Par 6d. The HA shall furnish 17 copies of each draft environmental statement to the FHWA division engineer who shall distribute 16 copies to the following recipients:

FHWA Regional Office	1
FHWA (to the Office of Environmental Policy, HEV-10	2
DOT's Office of Environment and Urban Systems (TEU)	3
Council on Environmental Quality (CEQ)	10
722 Jackson Place, N. W. Washington, D. C. 20008	

NOTE: The HA is to make distributions to all other required local, State, and Federal agencies (see Appendix G).

Transmittal 257
September 7, 1972

PPM 90-1
Appendix C (Refer to
Paragraphs 2c, 2d, 6c and 6d)

INTER-AGENCY REVIEW OF DRAFT
ENVIRONMENTAL STATEMENTS

1. Draft environmental statements are to be circulated to appropriate Federal, State, and local agencies. State and local agency review comments will be solicited from State, regional, and metropolitan clearinghouses. Federal agencies are those having jurisdiction by law or special expertise with respect to any environmental impact involved.
2. Careful attention should be given to the selection of agencies having jurisdiction by law or special expertise in an anticipated impact to avoid the unnecessary solicitation of agencies. Appendix II to CEQ's guidelines published in the April 23, 1971, Federal Register lists agencies with their respective areas of jurisdiction by law or special expertise. A majority of the areas are the concern of the Departments of Housing and Urban Development, the Interior, Agriculture, and the Environmental Protection Agency.
3. The Department of Housing and Urban Development (HUD) generally deals with urban aspects of historic and archeological sites, flood plains and watersheds, parks, forests, outdoor recreation, noise, congestion, low-income neighborhoods, and urban planning. Draft environmental statements in urban areas and all draft combination environmental/Section 4(f) statements should be furnished to HUD for comment.
 - a. It is desirable to develop a written understanding with the regional office of HUD about which rural statements it wishes to review. HUD has delegated review of environmental statements to its regional offices.
4. The Department of the Interior has an interest in several environmental impact areas, including energy transmission, land use, historic and archeological sites, flood plains and watersheds, parks, forests, outdoor recreation, erosion, urban congestion, low-income neighborhoods, urban planning, rivers, canals, stream control, and wildlife. It may be advantageous to include the Department of the Interior in the mailing list for all draft environmental statements.
5. The Department of Agriculture is oriented towards rural matters. It has an interest in rural electrical energy transmission, toxins, pesticides, herbicides, land use, flood plains, watersheds, parks, forests, outdoor recreation, erosion, rivers, canals, stream control, and wildlife. Accordingly, it should be furnished draft statements on rural highway sections.

6. The Environmental Protection Agency (EPA) has jurisdiction by law or expertise in all major Federal actions significantly affecting the environment. The EPA should be furnished five copies of all draft statements. Comments should be solicited under both Section 102(2)(C) of the National Environmental Policy Act and Section 309 of the Clean Air Act of 1970.
7. The Department of the Army, Office of the Chief of Engineers (Corps of Engineers), is interested in land use and management (coastal areas and navigable waters), flood plains and watersheds, soil and plant life, transportation (harbors, channels, inlets, inland waterways, locks and dams, dredged spoil disposal), and water quality and pollution control. Early coordination is the best guide in determining if the Corps of Engineers has an interest in commenting on the highway section. This early coordination will establish which projects will subsequently require a Corps of Engineers permit.
8. Other agencies, that should be consulted and furnished a copy of the draft environmental statements for comment, will usually be identified during early coordination.
9. Other administrations with the Department of Transportation will need to be solicited for comment in some cases such as a proposed highway section with a bridge over navigable water that requires a permit from the Coast Guard. The administration from which comments are sought (preferably local offices) may be contacted directly by the HA.
10. In its letter asking an agency for comment on any anticipated environmental impacts for which the agency has jurisdiction by law or special expertise, it is suggested that the HA identify which impacts described in the statement the HA would specifically wish discussed. The Federal agency should be asked to comment on each alternative and, if it desires, state a preference and reasons therefor. When the HA places a time limit on the commenting period, the Federal agencies are to be advised at the time comments are solicited and should be informed that if no comments are received within that time period, the HA will assume that the review agency has no comments to offer. The HA should clearly indicate where responding agencies are to return their comments.

Also enclosed in Appendix G of PPM 90-1 is a listing of Federal Agencies with Jurisdiction by Law or Special Expertise to Comment on Various Types of Environmental Impacts. This may be found in PPM 90-1 or the Federal Register, Vol. 36, No. 79 - Friday, April 23, 1971.

Appendix B
Virginia's Action Plan for Federally Funded Highway Improvement Projects

OTHER AGENCY PARTICIPATION:

General - Agency participation in the development of Virginia's highway programs is achieved through the "A-95 Process" (described below), by direct contact with agencies whose programs are closely related to highway development and by coordination of programs through the Governor's Office, primarily through the Secretary of Transportation. Furthermore, all agencies have essentially the same opportunities for input to highway program development as does the individual citizen, and the legislative process for funding all state programs requires a coordination of effort by all state agencies.

Typical examples of agency participation in the development of the total highway programs are two specific programs which provide highway funds for the construction of roads to industrial sites and to recreational areas. As a result of the legislative process, inputs from other agencies, and direction from the Governor's Office, these programs were developed, received legislative approval, and are administered in close coordination with other state agencies. The development of a total program encompassing all of the State's needs, and the approval and fundings of the program by the Legislature, requires a coordinated effort at the highest level of State Government.

During the Project Development Process (Charts 5A and 5B)(Figure 3 in this report), the design engineers and those responsible for analyzing the social, economic, and environmental impact of the project, determine which governmental agencies are likely to be affected by the project. In addition to the A-95 process, direct contact is made with these agencies, where appropriate, at each point in the process from the initial or preliminary stages through the final or construction stage. This direct contact with other agencies includes the governments of the adjoining states when it is determined that a Virginia project may have an affect on the transportation system of the adjoining state or may have an adverse affect on the environmental quality of the adjoining state. In the Norther Virginia area, coordination is accomplished through the Metropolitan Washington Council of Governments as part of the "3-C" planning process. In other areas, coordination is accomplished by direct contact with the neighboring highway department at both system and project development stages.

A-95 Process - The "A-95" Process was developed in response to the Federal requirements set forth in the Intergovernmental Cooperative Act of 1968. The requirements of this law were interpreted by the Bureau of the Budget's Circular Memorandum A-95 dated July 24, 1969. The purpose of this process is to insure coordination of development planning on an intergovernmental basis for all federally funded projects. Current procedures require the Department to notify appropriate

State and regional "clearing-houses" of its intent to apply for federal funds before developing detailed plans for highway improvement projects; and subsequently, of its application for federal funds at the time detailed plans are submitted for approval to the Federal Highway Administration. The functions of these clearinghouses are to identify the relationship of any project to statewide or areawide comprehensive plans and to further identify the relationship of any project to the plans or programs of particular State agencies or local governments.

In Virginia, there are two (2) levels of clearinghouse - State and regional. The Division of State Planning and Community Affairs has been designated as the State clearinghouse by the Governor. The Governor has designated as regional clearinghouses, the Regional Planning District Commissions, except in Northern Virginia where the Transportation Board of the Metropolitan Washington Council of Governments serves in this capacity. The clearinghouses have the responsibility of notifying appropriate State Agencies, local governments, and other regional agencies of the Department's intent to apply for federal funds and of its application for federal funds. The process provides these other units of governments an opportunity to review and comment on the Department's plans for highway improvements as the initial stage of development and before any federal funds are committed. The information gained permits the Department to give early consideration in its plan development to the viewpoints of other agencies.

Appendix C

Virginia's Action Plan for Federally Funded Highway Improvement Projects

ACTION PLAN IMPLEMENTATIONCURRENT STATUS:

In the analysis of current procedures and organization which the Department conducted to determine the extent of compliance with the intent and requirements of the Federal guidelines, the Department found it is now acting substantially in conformance with those guidelines because in the past few years, the Department has changed with the changing needs. These changes have been not only an immediate response to new requirements of the Federal Government, but also a response to changing citizen needs and desires as interpreted by the Department itself and by the citizens' elected state representatives. The Department has expanded the opportunity for citizen participation beyond those specified by the federal regulations. It has developed an in-house capability to assess the social, economic, and environmental impact and has applied it to its decision making process. It has expanded the scope of considering alternative courses of action to include the assessment of "other" modes of transportation. It has, without federal direction, gone beyond minimum requirements, developing and adopting new programs to provide a transportation system that will be in the best overall public interest for the citizens of Virginia.

The great majority of citizens attending the eight district hearings on the Action Plan gave an overwhelming vote of approval to the programs the Department has developed, the prime requests being to speed up implementation of the program. Despite public acceptance of its effort, the Department recognizes that it must continue to anticipate and adapt to changing needs if it is to maintain the confidence of the citizens and their elected representatives.

IMPLEMENTATION REQUIREMENTS:

The analysis of the Department's organization, procedures, and the input received from citizens and other agencies indicates the following changes will improve the Department's decision-making processes:

Adopt a Formal Procedure for the Consideration of Social, Economic, and Environmental Effects at the Systems Development Stage - Currently the social, economic, and environmental effects are considered at the Systems Development Stage; however, the preparation of a formal "overview" of these effects by the Environmental Quality Engineer will provide a more sound and documented basis for decision making in the System and Subsystem Development Processes.

Provide an Earlier Commitment to a Level of Action in the Project Development Process - Currently in distributing the A-95 "Notice of Intent" through the clearinghouses to other agencies and local governing bodies, the Department does not indicate the degree of impact a project is likely to have. True, the amount of data available at that point is limited and is inadequate to make other than a very tentative and preliminary determination. However, there are many instances where the determination is most obvious. Regardless of the circumstances, an earlier indication of the degree of impact will be of considerable assistance in obtaining increased response from the other agencies.

As described in Flow Chart 5-A, the tentative preliminary determination of impact will be made by the Location and Design Engineers responsible for initiating project activity. Their guide for making this tentative determination will be FHWA, PPM 90-1, Appendix F. The tentative determination will be reviewed by the Environmental Quality Engineer concurrently with the review by other agencies. With the benefit of other agency comments and the Environmental Quality Engineer's analysis of the preliminary determination, the Department will be in a better position to determine the level of action required before the first project studies are undertaken.

Increase the Resources Devoted to Consideration of New or Other Modes of Transportation in the Urban Planning Process - Consideration of transportation modes other than private passenger and freight vehicles is inherent in the Department's urban planning process. However, an increase in the resources devoted to this phase of urban planning will provide the means for a more comprehensive review and analysis of the effects the development of other modes may have on the highway program in urban areas.

Conduct Periodic Audits to Determine Compliance with Action Plan Procedures - To assure continuing compliance and implementation of required changes in organization and procedures, the Department will conduct periodic audits of all phases of the Action Plan. The findings of such audits will be reported to the Deputy Commissioner and Chief Engineer and to the Director of Administration.

The changes required to improve the Department's decision-making processes are primarily dependent upon the Department's ability and its commitment to increasing the staff of the Environmental Quality Division and the Metropolitan Transportation Planning Division. Action has already been taken to increase the staffs of these divisions and the Department has underway a comprehensive manpower evaluation study to determine the number and type of personnel required to provide the necessary expertise. The study is scheduled for completion by January 1, 1974 and phased implementation of the approved recommendations should commence shortly thereafter.

