

Memorandum of Understanding
VDEQ & VDOT
Centralized Burning of Vegetative Debris from VDOT Roadside Maintenance Operations

Whereas, VDOT, as a result of its maintenance efforts, routinely generates significant volumes of vegetative debris requiring disposal; and

Whereas, VDOT and VDEQ agree that alternatives to burning vegetative debris for disposal (including landfilling, mulching, debris processing, and related transportation costs) may not be economically feasible, especially in rural areas of the Commonwealth; and

Whereas, Under §10.1-1307.2(B), the Director of Department of Environmental Quality may be vested with the authority of the Board when it is not in session, subject to regulations or delegations prescribed by the Board; and

Whereas, 9 VAC 5-130-60 of its regulations, the Board has delegated to the Director the authority to approve waivers related to open burning; and

Whereas, 9 VAC 5-130-40 (A)(8) provides that "*[o]pen burning or the use of special incineration devices is permitted onsite for the destruction of clean burning waste and debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations...*"; and

Whereas, 9 VAC 5-130-60 (A) provides that "*[a] waiver from any provision of this article may be granted by the board for any person or geographic area provided that satisfactory demonstration is made that another state or local government entity has in effect statutory provisions or other enforceable mechanisms that will achieve the objective of the provision from which the waiver is granted...*"; and

Whereas, 9 VAC 5-130-60 (C) provides that "*[w]aivers under subsection A of this section shall be executed through a memorandum of understanding between the board and affected governmental entity and may include such terms and conditions as may be necessary to ensure that the objectives of this article are met by the waiver...*"; and

Whereas, VDOT has in place enforceable mechanisms governing how vegetation along transportation systems is controlled and managed, including policies and procedures for VDOT personnel, as well as contractual provisions for its contractors; and

Whereas, VDOT has the legal authority to enforce requirements of this MOU upon VDOT personnel through its policies and procedures, and upon VDOT contractors through legal contracts; and

Whereas, this document represents an understanding between VDEQ and VDOT so that both may better fulfill their respective agency mandates; and

Whereas, both VDEQ and VDOT agree that, except as provided herein, nothing in this agreement shall grant any rights to a third party; be it

NOW, THEREFORE, WITNESSETH THIS MEMORANDUM OF UNDERSTANDING: