

Public Access

Section 309 Enhancement Objective

Attain increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value

Resource Characterization

Purpose: To determine the extent to which problems and opportunities exist with regard to the enhancement objective.

1. Characterize threats and conflicts to creating and maintaining public access in the coastal zone:

Type of threat or conflict causing loss of access	Degree of threat (H,M,L)	Describe trends or provide other statistics to characterize the threat and impact on access	Type(s) of access affected
Private residential development on waterfront, shoreline or other coastal areas (including conversion of public to private facilities)	H	<p>Trends include:</p> <ul style="list-style-type: none"> - Displacement of traditional access points; the decline in access for commercial fishing is approaching critical. - A recent trend along the coast has been the “privatization of the shoreline.” For example, marinas for public boat access are being redeveloped into condominium complexes with private boat access. Similarly, subdivisions that don’t provide centralized access to water bodies, but instead allow multiple, individual water access sites, jeopardize the visual integrity of the resource. This is particularly significant along Virginia’s designated scenic rivers. Loss of access points along the coast due to private residential development has also been significant. - The high cost of land in coastal areas makes public lands acquisition very difficult. - Development pressure in the coastal zone is drastically reducing areas 	<p>Boating (motorized and non-motorized);</p> <p>Hiking;</p> <p>Working waterfronts (seafood businesses and marina loss);</p> <p>Trails and public access as a whole;</p> <p>Loss of habitat;</p> <p>Loss of wildlife resources;</p> <p>Loss of native species;</p> <p>Loss of all public access, or degraded public access, where private development occurs.</p>

		<p>available for open space.</p> <ul style="list-style-type: none"> - Reduction in public access adds pressure to maintain and control use of existing public access sites. - Private homeowners express concerns about visual and physical impacts of public access. Some call this the not-in-my-backyard (NIMBY) issue, meaning that people may not want the public to have access near their private homes. Also, sometimes developers don't want public access sites within the viewshed of their residents. 	
Use or conversion of the waterfront for non-water dependent commercial and/or industrial uses	M to H	<ul style="list-style-type: none"> - Displacement of traditional access points; the decline in access for commercial fishing is approaching critical. - Conversion may be more likely in rural areas where housing costs are low, compared to other more urbanized areas where the conversion from commercial to residential use is more likely. - Many similar threats and trends as above. 	<p>Working watermen;</p> <p>Loss of public access sites as a whole;</p> <p>Hiking;</p> <p>Boating.</p>
Erosion	M to H	<ul style="list-style-type: none"> - Erosive forces depend on the river, surrounding topography, type of access, and appropriate design of the access. Access does not necessarily equate with high erosion and the impacts should be evaluated on a case-by-case basis. But where erosion is an issue, it is slowly eroding away the public access footprint. - Climate change and increasing storm frequency are accelerating erosion, and may significantly increase the loss of beach areas and access points. They also affect the quality of public access, especially Bayside, where there is little to 	<p>Public access points;</p> <p>All boating access and launch points;</p> <p>Bayside wildlife viewing sites.</p>

		<p>no attempt to slow the rate of runoff from large storm events;</p> <ul style="list-style-type: none"> - Sedimentation of estuaries/ tributaries is another result of continued poor erosion control. Lack of enforcement of watercraft no-wake zones throughout coastal tributaries, particularly along smaller, navigable waters, is exacerbating this problem. - More development creates more runoff. As the coastal groundwater table is shallow, run-off is more immediate than in other areas. Stormwater management efforts in coastal areas are insufficient to manage the increased runoff from development. 	
Sea level rise/ Great Lake level change	M to H	<ul style="list-style-type: none"> - This is a long term concern and should be considered in planning all types of access and developments along Virginia's coast. - Virginia will likely lose 30% of its coastal area wildlife viewing sites, especially on the Eastern Shore - The Dept. of Game and Inland Fisheries (DGIF) conducted a study on the impacts of sea level rise on boat access facility change. There is a need to map sea level rise to determine all threats and impacts. - Islands are rapidly shrinking. For example, Tangier Island is shrinking so quickly due to sea level that its mural map has to be updated every two weeks. - See the <i>Coastal Hazards Assessment</i> area for additional information on sea-level rise. 	<p>Public access points;</p> <p>Conserved lands;</p> <p>Islands in the Chesapeake Bay;</p> <p>Impact on open water boating public access sites; many sites will disappear completely.</p> <p>Loss of lands and flooding of sites. In some areas, this will happen gradually. In other areas, rapidly.</p>
Natural disasters	L to M	<p>There may be some temporary impacts like those associated with Hurricane Isabel, but some events will have a greater</p>	<p>Some public access sites are flooded or destroyed and need to</p>

		<p>impact than others.</p> <p>Effects of natural disasters will increase significantly as climate change accelerates.</p>	be rebuilt.
National security	L	<p>Several public access sites on or near military bases get closed down during a high level of alert. National security has cut back on the ability to take groups out on the Bay Bridge Tunnel (to the Eastern Shore). Also national security has eliminated all access to four of the islands on the Eastern Shore.</p>	Public access sites near military facilities.
Encroachment on public land	L to M	<ul style="list-style-type: none"> - The degree of encroachment depends on the location and locality being evaluated. - Sedimentation of navigable waters reduces their navigability. - VA Dept. of Transportation (VDOT) road endings serve as 30-ft wide public access portals. However, new abutting home owners try to close off these road endings to block public access via existing public right-of-ways 	<p>Public boating access and walking trails;</p> <p>VDOT public road endings at the water's edge.</p>
Other: Dredging	M to H	<p>Expanded maintenance dredging is urgent for targeted small, unmarked channels throughout the coastal zone.</p>	<p>All boating access;</p> <p>Coastal property values.</p>
Other: Lack of Funding	H	<p>Lack of funding is a huge issue right now; longevity of this matter is currently unclear.</p> <p>Federal funds for building more water access sites are tied to motorized boats (Wallop-Breaux motorboat fuel tax); this means that paddlers are underserved.</p> <p>Federal funds for dredging will focus primarily on the most heavily trafficked waterways.</p> <p>Federal funds for trail construction are also tied to motorized trails (tax from</p>	All aspects of public access.

		fuel)--30% of projects must be used for motorized trails, which should not be located adjacent to waterways. Funding from the Land and Water Conservation Fund—which can be used for acquisition and development of public access sites—has declined to very low levels in last few years. (See the <i>Acquisition programs or policies and Alternative funding sources or techniques</i> for additional information on this topic).	
Other: Railroads	L to H	In some areas, railroads that run parallel to the waterway can restrict public access.	

2. Are there new issues emerging in your state that are starting to affect public access or seem to have the potential to do so in the future?

Climate Change

Climate change is causing the “window” of use for public access sites to shift from spring and summer to more year-round. As mentioned above, sea level rise has the potential to significantly decrease the overall number of public access sites. Furthermore, the balance of conserved lands and open space, private development, and public access will shift dramatically with sea level rise, an increase in storm events, and with other associated impacts of climate change.

Private residential development

There is an increasing trend toward private residential development in traditional maritime and rural communities. In addition, the lack of commitment to maintaining navigable waters and smaller tributaries is impacting on-water public access for both recreation and commerce.

Water trails

Several new water trails have been developed in Virginia, and there is significant potential for further development of water trails. A water trail is defined as “a stretch of river, a shoreline, or an ocean that has been mapped out with the intent to create an educational, scenic, and challenging experience for recreational canoeists and kayakers.¹⁰” The Capt. John Smith Chesapeake National Historic Trail, managed by the National Park Service, is the first water trail in the nation and is located throughout Virginia’s coastal areas and is part of the Chesapeake Bay Gateways Network (www.baygateways.net). The John Smith Trail website is: www.smithtrail.net. There are eleven water trails in Virginia’s coastal area, according to the John Smith trail website.

¹⁰ Definition from North American Water Trails, Inc.

Non-motorized boat launches

There has been an increase in the number of non-motorized boat launches throughout Virginia, as well as a considerable need to increase non-motorized boat launches throughout Virginia's coastal zone. Additionally, there is a need for areas for recreational users to take boats on beaches. Although the demand is increasing for these facilities, a funding mechanism is lacking to put these structures in place at a comprehensive scale. Currently, a fee collected from the licensing of motorized boats provides funding for motorized boat launches. However, non-motorized boat users aren't required to register their boats, and as a result, there is no dedicated funding source for providing non-motorized boat launches. Some state agencies, such as the Dept. of Game and Inland Fisheries (DGIF), have worked to put in non-motorized boat launches especially where localities are able to help provide funding or assistance. DGIF policy does not allow for a portion of The Federal Aid in Sport Fish Restoration Act (Dingell-Johnson Act) revenue to go to non-motorized boat launches.

There is a need to address this programmatically by creating a dedicated funding source for non-motorized boat launches. The Dept. of Conservation and Recreation (DCR) only constructs boat ramps in state parks. DGIF installs and maintains motorized and some non-motorized boat launches, though the agency receives no direct funding for non-motorized boat launches (although DGIF does receive funding from the registration of motorized boats, these funds go to boater safety and titling programs).

Increased difficulty in obtaining public access points

Although gaining public access to coastal areas has been identified as a top priority for Virginians, many state agency and regional Planning District Commission (PDC) employees noted that it is increasingly difficult to gain access due to several reasons including:

- Increased private residential development in coastal areas provides little to no public access allowances, or if access is allowed, it is often associated with a fee.
- There is a lack of funding and dedicated resources – including staffing at state agencies – to promote public access, including identifying and acquiring public access sites. For example, there are currently no dedicated staff members to support public access at state agencies, although public access has consistently ranked as a top priority by citizens in the Virginia Outdoors Plan Survey (see below under *Contextual Measures* for additional information). Additionally, many localities, agencies and organizations are restricting programming for public access and related infrastructure due to a lack of funding. Dedicated funding sources are drying up, such as SAFETEA-LU grants, which helped establish the DGIF Birding and Wildlife Trail. All tourism projects may now be cut from this funding source due to greater focus on transportation projects. This means that projects such as the VA Birding and Wildlife Trail would no longer be considered eligible under Commonwealth Transportation guidelines for SAFETEA-LU grants.
- The cost of land has risen significantly in Virginia's coastal zone, making obtaining lands for public access and recreation more difficult. For example, the average price per acre on Virginia's Northern Neck is \$300,000 - \$350,000, and localities and agencies frequently don't have funding to purchase property for public access.

- The perceived threats associated with public access are a continuing challenge. Many situations have been noted where neighbors have complained about potential public access points due to fear of increase in noise, visual impacts, trash, pollution or parking concerns, and, as a result, the public access sites were not developed. In some cases, the lack of an established or funded maintenance entity fueled these concerns.
- Landowners are less likely to make their land available for public recreational use due to a lack of resources for trails creation and maintenance of public amenities. As grant sources become scarcer, landowners have stated that they have fewer resources to maintain public access points on their land, and as a result some landowners have removed public facilities such as trails from their lands.
- The cost of providing and developing public access is very expensive, and state agencies report that it is becoming harder to develop such facilities as budgets are cut and less grant funding is available.
- Although there is a burgeoning increase in water trails, especially in public awareness of those trails, state agencies assert that there is a great need to develop and maintain waterside facilities. Needed amenities include restrooms and camping facilities, as well as additional water access points to get on and off the water to use onshore facilities.
- State agencies report that regulatory requirements have gotten stricter and budgets tighter in recent years, and as a result it is more difficult to put public access sites in place. Regulatory requirements that have become more strict include stormwater management regulations, especially for parking lots, which increase the cost of developing public access and other facilities. Additionally, the Bay Act regulations for parking lots and access support facilities now require more planning, effort, and design for developing and maintaining public access sites.
- Maintenance and management funds have been greatly reduced, and as a result it is difficult to maintain the level of providing public access. For example, DCR had a 14% reduction in funding in the last 15 months. State agencies project that additional cuts in state agency budgets are anticipated, which may result in closure of facilities and a loss of public access.

Opportunities to increase public access

New public access sites can emerge with private development, but a cost or fee is usually associated with this type of access. Occasionally, abandoned sites along the coastal zone allow for public access sites to be developed, but these are rare. There is an opportunity to work with developers to create public access points in new residential development sites. However, negative perceptions and fears about the potential impacts of public access need to be addressed. Increased public outreach and communication could address homeowner concerns. Hearing and addressing residents' concerns and ideas at the onset of developing a public access site could also be effective. For example, if resident's concerns might be alleviated by providing adequate trash and recycling receptacles and lighting.

There is a significant opportunity to increase the number of public access sites at the local level with new development. Localities often have the greatest awareness of the need and opportunities in specific locations, and there is a need to increase mechanisms for localities to acquire new public access sites. Mathews County, located in the Middle Peninsula of Virginia, has been noted by several people for doing an excellent job of maintaining access for the public,

particularly with regard to tourism sites. Alternately, there is a need to reduce development in coastal areas to preserve open space and public access sites.

Partnering tourism and land conservation with recreational opportunities could provide additional public access sites. State agency staff noted that increasing partnerships with groups like the Virginia Tourism Corporation could be beneficial in this regard.

There is an opportunity and a need to develop regional solutions to problems that are larger than local jurisdictional lines. Regional planning is taking place at a greater scale both in Virginia and other coastal states to address coastal and public access needs and planning. At the same time, the Chesapeake Bay Preservation Act requires 84 of Virginia's localities to address public access in their comprehensive planning processes. This could be an opportunity to increase public access sites at the local level.¹¹

Public Access Authorities, Road Ending Opportunities, and Working Waterfronts

There are currently two Public Access Authorities (PAAs) in the state of Virginia: 1) the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA), which was created in June of 2003; and 2) and the Northern Neck Chesapeake Bay Public Access Authority (NNCBPAA), which was created in 2005. The PAAs are charged with identifying sites, both privately and publicly owned, with high potential for public access and developing mechanisms to transfer those sites to the Authority for management or ownership. Both the development of the PAAs and many of their implementation activities have been supported with Virginia Coastal Program Section 306 funding. To date, the MPCBPAA has acquired thousands of acres of land for public access. One way the MPCBPAA has had success in requesting and gaining public access sites is through conducting direct outreach to landowners of large parcels. However, it was noted that there is a need for increased capacity and staff (at the state agency or PAA level) for inquiring about public access sites with property owners.

In 2008, the Virginia General Assembly passed legislation allowing ownership transfer of VDOT road endings to the localities, primarily through the PAAs, and these sites may now be developed into public access points (see the *Management Characterization* section below for more detail on this statute). There has been considerable discussion in determining whether a former road ending would be leased or transferred to PAAs from VDOT, and this method of gaining public access points has had varying degrees of success. In Virginia's Middle Peninsula, there are over 300 road endings, and the first transfer of a road ending is currently in process in Gloucester County. The MPCBPAA is working with the counties to identify what their priorities are for public access, and to work on acquiring those road endings for public access points from VDOT. Potential conflicts associated with public access at road endings have been noted, including parking and access, maintenance, trash collection and illegal dumping at ends of roads, as well as a need for increased funding and staffing to address these possible problems.

The MPCBPAA will work over the next several years to identify policy problems and opportunities for resolving challenges related to public access, as well as to help local

¹¹ For additional information, see the website:
http://www.dcr.virginia.gov/chesapeake_bay_local_assistance/theact.shtml

governments prioritize community needs for public access and to preserve the maritime character of coastal communities. If the Coastal Zone Management Act of 1972 is amended with the Working Waterfront Preservation Act of 2009, the legislation will require communities to conduct a comprehensive planning process around working waterfronts and public access (see the section below under *Statutory, regulatory, or legal system changes that affect public access* for additional information). The PAA will utilize the planning tool they have developed with local jurisdictions for implementing goals identified by communities for working waterfronts and public access, which will also meet the requirement outlined by this statute if it is amended. In addition, this model will be available for utilization by other coastal communities as needed.

The needs identified by communities working to preserve working waterfronts are intertwined with public access needs, and goals can frequently be met by projects that address both sets of issues. For example, preserving or developing a public boat ramp may provide access for commercial fisherman as well as by kayakers. There is an opportunity to utilize economic development tools to meet both sets of goals as well.

3. (CM) Use the table below to report the percent of the public that feels they have adequate access to the coast for recreation purposes, including the following. If data is not available to report for this contextual measure, please describe below actions the CMP is taking to develop a mechanism to collect the requested data.

Contextual measure	Survey data for the State of Virginia
Number of people that responded to a survey on recreational access	2,011 responses to the Virginia Outdoor Plan (VOP) survey in 2006
Number of people surveyed that responded that public access to the coast for recreation is adequate or better.	50.2% indicated there is a need for additional public access (2006 VOP survey)
What type of survey was conducted (i.e. phone, mail, personal interview, etc.)?	Mail survey
What was the geographic coverage of the survey?	Statewide
In what year was the survey conducted?	2006

Contextual measure	Survey data for the Middle Peninsula
Number of people that responded to a survey on recreational access	214 responses to a public access survey conducted by the MPCBPAA
Number of people surveyed that responded that public access to the coast for recreation is adequate or better.	Zero because this specific question was not asked on the survey.
What type of survey was conducted (i.e. phone, mail, personal interview, etc.)?	Survey monkey (website)
What was the geographic coverage of the survey?	Virginia- Lower Chesapeake Bay and tributaries area.
In what year was the survey conducted?	2008

4. Briefly characterize the demand for coastal public access within the coastal zone, and the process for periodically assessing public demand.

Statewide

As indicated by the 2006 Virginia Outdoors Plan (VOP) survey, there is a very high need to meet recreational demands. As populations grow in the coastal area and as sea level rises, the planning for public access will become more important. Virginia assesses the need for public access via the VOP statewide survey conducted approximately every 5 years. The VOP website is: http://www.dcr.virginia.gov/recreational_planning/vop.shtml.

As part of the high demand for recreation, there is strong demand for increased access to the Coastal Zone within Virginia. Localities and state agencies report that a significant number of citizens want additional boat ramps, an increase in the number of public access facilities, trails, and access to the water bodies including beaches and rivers throughout Virginia’s coastal areas. There is an opportunity to conduct an outdoor survey that is specific to the coastal zone, including the Chesapeake Bay area, to assess demand and needs (see the *Priority Needs and Gaps* section for more on this idea).

With regard to the Birding and Wildlife Trail, the DGIF conducted an assessment survey that showed that 95% of trail users were satisfied with the experience.

Middle Peninsula

Respondents identified a lack of every type of public access in the survey area –79.3% of respondents stated that “overall lack of public water access sites” was the biggest threat to public access to Middle Peninsula waterways and the Chesapeake Bay, and 96% of respondents said that public access was a concern to them. The MPCBPAA annually, biannually and tri-annually works to assess public access within the Middle Peninsula.

5. Please use the table below to provide data on public access availability. If information is not available, provide a qualitative description based on the best available information. If data is not available to report on the contextual measures, please also describe actions the CMP is taking to develop a mechanism to collect the requested data.

Types of public access	Current number(s)	Changes since last assessment (+/-)	Cite data source
(CM) Number of acres in the coastal zone that are available for public access (report both the total number of acres in the coastal zone and acres available for public access)	827,286.89 acres of Conservation Lands in the Coastal Zone. 5,108,634.9 acres of total land area in the coastal zone. ¹² Approximately 400,051.6	+	DCR

¹² Information from DCR - Natural Heritage using census data.

	acres are open to the public.		
(CM) Miles of shoreline available for public access (report both the total miles of shoreline and miles available for public access)	Approximately 10,211.9 total miles of shoreline, with 1,516.3 miles available for public access. ¹³	N/A	DCR
Number of State/County/Local parks and number of acres	Approximately 933 parks and 103,165.21 acres.	+ parks - acres	DCR
Number of public beach/shoreline access sites	44 public beaches are monitored by the Dept. of Health 5 beaches in the Northern Neck area, 2 shoreline access points	+ (1 additional beach in the Northern Neck)	VA Dept. of Health
Number of recreational boat (power or non-power) access sites	233 21 in the Northern Neck	same	2005 update of the Chesapeake Bay Public Access Guide
Number of designated scenic vistas or overlook points	There are 74 scenic vista/overlooks on the coastal phase of the VA Birding and Wildlife Trail including the estuarine river sites, of these, 33 are Bay or Seaside overlooks.	+	DGIF
Number of State or locally designated perpendicular rights-of-way (i.e. street ends, easements)	Not tabulated for entire state 300 in Middle Peninsula Public Access Authority jurisdiction	-	Middle Peninsula Public Access Authority jurisdiction
Number of fishing access points (i.e. piers, jetties)	153 total fishing access points		DCR for acreage

¹³ VIMS Virginia shoreline GIS data were used to calculate total shoreline length, including coast line and intertidal rivers (including the Potomac River up to Fairfax County). Shoreline excluded "state owned tidal lands" along the Eastern Shore in the calculation, using the Conservation Lands Database (VA-DCR). Public shoreline was derived by using Conservation Lands attributed as "open" or "seasonal" to extract or "clip" the corresponding shoreline segments.

	1 in Northern Neck		2005 update of the Chesapeake Bay Public Access Guide NNPDC
Number and miles of coastal trails/boardwalks	N/A for state 2 in Northern Neck	N/A for state	
Number of dune walkovers	N/A	N/A	
Percent of access sites that are ADA compliant access	N/A	N/A	
Percent and total miles of public beaches with water quality monitoring and public closure notice programs	70 miles of shoreline and 44 public beaches (100% of public beaches) are monitored. *note that this doesn't apply to rivers, but only ocean areas.	100% of public beaches had water quality monitoring during the previous assessment for 34 Beach/Shoreline Access Sites.	Dept. of Health
Average number of beach mile days closed due to water quality concerns	In 2009, 14 total advisories were posted for 9 (out of 44 beaches) with a total of 51 days under advisory. 51.5 total miles of beaches had swimming advisories posted in 2009.	In the previous assessment, 34 Beach Mile Days of Advisories (2004) ¹⁴ were reported.	Dept. of Health

¹⁴ These are beach advisories, not closures. There were no beach closures due to water quality.

Management Characterization

Purpose: To determine the effectiveness of management efforts to address those problems described in the above section for the enhancement objective.

1. For each of the management categories below, indicate if the approach is employed by the state or territory and if significant changes have occurred since the last assessment:

Management categories	Employed by state/territory (Y or N)	Significant changes since last assessment (Y or N)
Statutory, regulatory, or legal system changes that affect public access	Y	Y
Acquisition programs or policies	Y	N
Comprehensive access management planning (including GIS data or database)	Y	Y
Operation and maintenance programs	Y	N
Alternative funding sources or techniques	Y	Y
Beach water quality monitoring and pollution source identification and remediation	Y- The Department of Health monitors beaches (however, monitoring is only conducted for ocean beaches, not river beaches). Remediation is not conducted for pollution sources that are identified (no funding identified for this work).	N
Public access within waterfront redevelopment programs	N	N
Public access education and outreach	Y - Regionally- Middle Peninsula Chesapeake Bay Public Access Authority and Virginia Sea Grant developing a public access database and information clearing house	Y
Other (please specify)	Y – see below under “Other” section for descriptions	

2. For management categories with significant changes since the last assessment provide the information below. If this information is provided under another enhancement area or section of the document, please provide a reference rather than duplicate the information.

- a) Characterize significant changes since the last assessment;**
- b) Specify if it was a 309 or other CZM driven change (specify funding source) or if it was driven by non-CZM efforts; and**
- c) Characterize the outcomes and effectiveness of the changes.**

Statutory and regulatory system changes that affect public access

A bill was introduced to Congress in March of 2009, the Working Waterfront Preservation Act of 2009 (S. 533), to amend the Coastal Zone Management Act of 1972 to establish a grant program to ensure waterfront access for commercial fisherman and other purposes. This bill could have considerable benefit to rural and coastal governments with relation to public access and preservation of working waterfront infrastructure. Many states are concerned about losing the character of coastal communities as well as preservation of public access as working waterfront infrastructure is lost due in part to private residential development. This amendment would introduce a framework for coastal states with a new grant program to address many of the issues that are affecting coastal communities (see below under *Public Access Authorities* for more information on working waterfronts). Fine to note this and leave it in, but the gist is to note state and local regulatory changes (as below)

Regionally- Middle Peninsula Chesapeake Bay Public Access Authority: Regulation number 33.1-223.2:17, states that the Commonwealth Transportation Board may transfer interest in and control over certain highways, highway rights-of-way, and landings. Specifically this allows the VA Dept. of Transportation to transfer road endings to Public Access Authorities (see above under *Public Access Authorities* for more information on road endings).

Acquisition programs or policies and Alternative funding sources or techniques

Funds from the Coastal and Estuarine Land Conservation Program (CELCP), which is part of the Omnibus Lands Act, are distributed through the Virginia CZM Program. These funds have been utilized to acquire hundreds of acres for public access and preservation in Virginia's coastal zone. This program is administered through a competitive process for projects up to \$3 million maximum, which have to be matched dollar for dollar. For example, in September 2007, a federal grant from CELCP permitted the MPCBPAA to acquire and open to public access 357 acres in the Dragon Run watershed, and then another 209 acres in the watershed in 2008. The MPCBPAA is developing land management plans for the preservation tracts with stakeholder input, which will incorporate passive and low-impact recreational opportunities, forest and habitat management, water quality monitoring, and educational opportunities.

In late 2009, Governor Kaine met the goal of preserving 400,000 acres of open space by the end of the decade. According to DCR, 427,477.84 acres of land have been conserved as of January 2010, of which 91,948.07 are in the coastal zone.¹⁵ As part of Governor Kaine's land conservation efforts, thousands of acres of land have been placed in conservation easements,

¹⁵ Information on coastal conserved lands from DCR – Natural Heritage.

although many of these private lands don't allow for public access. Six new state forests, two new state parks, three new wildlife management areas, and 13 natural area preserves are also being created.

The Land and Water Conservation Fund (LWCF) is a Federal matching reimbursement grant program for the acquisition and/or development of public recreation areas and facilities that must be maintained in perpetuity as such. In Virginia, the program is administered by the Department of Conservation and Recreation in partnership with the National Park Service. Eligible grantees include public entities: towns, counties, cities, park authorities and state agencies. For boat and fishing access facilities and related support facilities previously eligible for funding under both the LWCF and the Dingell Johnson Act (also known as Federal Aid in Sport Fish Restoration Act and "Wallop Breaux"), as amended, now LWCF will not provide funding. However, LWCF assistance may be available for facilities related to motor boating, sailing, canoeing, kayaking, sculling, etc. LWCF assistance may also be used for fishing piers platforms, and their associated trails, provided the long-term commitment of the program can be upheld by the sponsoring entity and the assisted area can serve as a viable recreation area. Since 2003, the LWCF has received significant cuts in funding. The current outlook is that LWCF program funding could gradually increase over the next several years. (See below for the 2010 LWCF proposed budget.)

There are a several initiatives that may lend funding support for acquiring public access points. These are proposed for the 2010 Dept. of the Interior (DOI) budget (from the Bureau of Land Management website¹⁶) including the *Protecting Treasured Landscapes*, which would offer funding for protecting areas, some of which have been identified, to enhance users' experience and understanding of special natural areas. The proposed DOI budget also includes the *Land and Water Conservation Fund* (LWCF) at \$420 million (including \$120 million for U.S. Forest Service), with full funding of LWCF at \$900 million by 2014. Finally, the *Cooperative Endangered Species Conservation Fund* includes grants to States to support conservation of threatened and endangered species through a cost effective program, where funds are leveraged by States, who can in turn distribute this funding to tribes, municipalities and private landowners.

Other land acquisition programs include donations from landowners to state agencies such as the Dept. of Game and Inland Fisheries, the Nature Conservancy, or the Virginia Outdoors Foundation. These parcels, often placed under conservation easements, are sometimes able to be utilized for public access. However, the easement mechanism is more frequently utilized to prevent future development on the conserved lands. Additionally, wetlands banking has been discussed as a possible program in Virginia. The first wetlands banking site, a 7.5 acre tract along the Southern Branch of the Elizabeth River in Chesapeake, Virginia, was developed in 2005. Other coastal wetlands banking sites include the Cedar Run Wetlands Bank in Prince William County, the Julie J. Metz Wetlands Bank in Woodbridge, the North Fork Wetlands Bank in Haymarket and the Dover Farm Wetland Mitigation Bank.¹⁷

On May 12, 2009, President Barack Obama signed an Executive Order that recognizes the Chesapeake Bay as a national treasure and calls on the federal government to lead a renewed

¹⁶ BLM website: http://www.blm.gov/wo/st/en/info/newsroom/2009/may/NR_090517.html

¹⁷ Information from the National Mitigation Banking Association at the website: <http://www.mitigationbanking.org/mitigationbanks/index.html>

effort to restore and protect the nation's largest estuary and its watershed. The Chesapeake Bay Protection and Restoration Executive Order (EO) established a Federal Leadership Committee that will oversee the development and coordination of reporting, data management and other activities by agencies involved in Bay restoration.¹⁸ New funding may be available for public access sites in the coastal zone as a result of the EO; however, it focuses on federal lands, so although the ultimate recommendations and goals may promote greater state provision of public access, there may be a need to explore how the need for public access in Virginia overlaps with federal sites (especially those not currently providing access, but having site conditions that could accommodate access).

Comprehensive access management planning (including GIS data or database) and Public Access Education and Outreach

Regionally, the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA) and Virginia Sea Grant, with the National Sea Grant Law Center, are developing a public access database and information clearing house website. The MPCBPAA partnered with Sea Grant to receive funding for this resource. This website is geared to identify problems and solutions, including the rights of the public, and all information around public access in the Middle Peninsula. This website could be expanded to cover Virginia's entire coast. Sea Grant, who will house and manage the website, is building the capacity into the website to expand it for all coastal communities' utilization.

DCR and DGIF have several new GIS datasets that provide significant new data to localities. Additionally, some of the Planning District Commissions are utilizing the data sets.

Some of the DCR websites for public access and conserved lands include:

Land Conservation Data Explorer (which includes public access)

<http://www.vaconservedlands.org/gis.aspx>

Conservation Lands data download page

http://www.dcr.virginia.gov/natural_heritage/cldownload.shtml

VA Outdoors Plan (maps at the end of the regional analysis sections)

http://www.dcr.virginia.gov/recreational_planning/vop.shtml

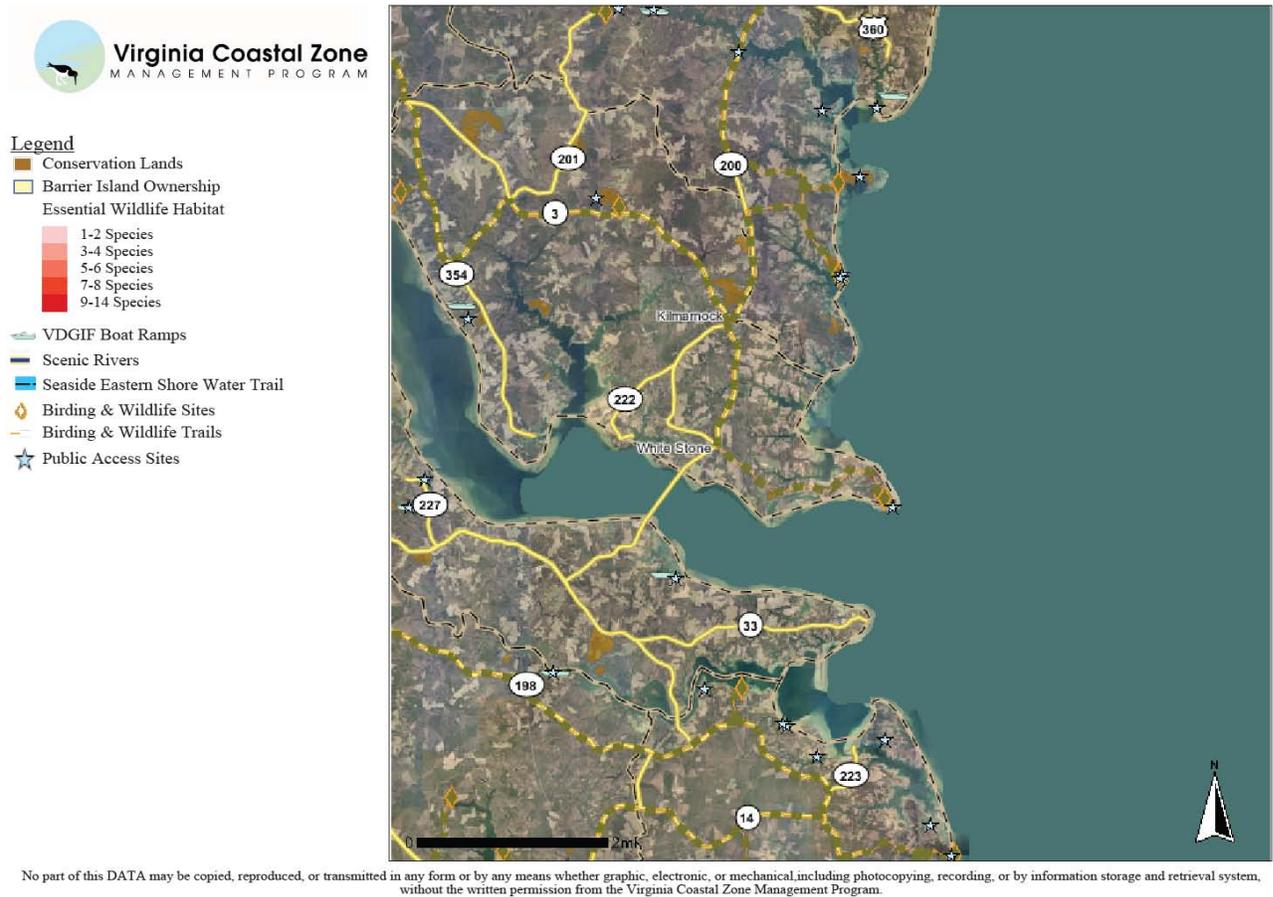
Although still under development, a beta version of the Virginia Trails and Routes inventory (existing and proposed facilities) is available for planners. Contact Jennifer Wampler, Jennifer.wampler@dcr.virginia.gov, for this information.

There has been an increase in the number of people requesting public access data, and people are also asking questions more frequently of state agencies. State agencies, such as DCR, have seen an increase in requests for maps and data, as well as university-based projects requesting research around public access in Virginia.

¹⁸ From the website: <http://executiveorder.chesapeakebay.net/page/About-the-Executive-Order.aspx>

The Coastal GEMS website, developed with CZM funding, has been identified as an excellent resource for mapping public access. A need has been expressed to increase the awareness of the website. Below is an example of a Coastal GEMS map with recreational and other map features from the website:

<http://www.deq.virginia.gov/coastal/coastalgems.html>



The Center for Coastal Resources Management at VIMS has developed Sea Level Rise Planning Maps which can be viewed at the website:

http://ccrm.vims.edu/gis_data_maps/static_maps/index.html.

The James River Association is developing an interactive web map for the James River. For more information, see the website: <http://jamesriverassociation.org/>.

Operation and Maintenance Programs

There have been funding cuts for operation and maintenance across the board at public access sites.

Beach water quality monitoring and pollution source identification and remediation

In 2005, 48 beaches were monitored by the Virginia Department of Health (VDH). Since that time, funding has been restricted and not all beaches are able to be monitored. Additionally, some of the beaches are no longer accessible and have reverted to private use or use by a few individuals, rather than a large percentage of the public, and monitoring is no longer conducted on them. Bacteria levels in beach water are monitored at all 44 public beaches on the Chesapeake Bay and Atlantic Ocean during the swimming season (May-September).

The VDH monitors 22 beaches in the city of Virginia Beach, and 27 miles of coastline. VDH estimates on a busy summer day that about 10,000 people use any one of those 22 beaches. VDH measures nine beaches in the City of Norfolk, with between 1,000 to 10,000 people using the beaches on a busy summer day. The remainder of the beaches monitored in Virginia are more localized to the Chesapeake Bay region, and have between 500 to 1000 people using them per day. VDH focuses on beaches with the highest use or the potential for possible problems for monitoring.

Although VDH doesn't conduct remediation of identified pollution sources, the agency does work with Virginia Tech to conduct source water identification work. Additionally, the Dept. of Environmental Quality (DEQ) works with VDH on their TMDL (Total Maximum Daily Load) program. In 2000, the Clean Water Act was amended to including recreational beaches, and as a result, DEQ will examine pollution sources for those beaches. Water quality assessments started examining water body use for beaches for the first time after this point, including wadeable waters in the ocean and estuarine waters. In 2006, one beach was under consideration for developing a TMDL. Three other beaches that were tested at that time, but were considered to have sufficient mitigation efforts.

New public access and outdoor recreation facilities

The Dept. of Conservation and Recreation (DCR) is currently in the planning stages for new additional State Parks; however, it is unknown when these Parks will be constructed as future funding is uncertain. Currently, funding is lacking for staff to develop these lands into state parks for the public to visit. The new state parks in the coastal zone or along intertidal rivers include the Middle Peninsula State Park in Gloucester County, Widewater State Park in Stafford County, and Powhatan State Park in Powhatan County along the James River.

According to DCR, a conceptual plan for the James River Heritage Trail is under development by the agency. This braided trail system will encompass the river and its banks from the headwaters in the Allegheny Mountains to its confluence with the Chesapeake Bay. The heritage trail is unique because of the emphasis on interpretation and potential for outreach to school groups. The trail is already in use by paddlers as well as by bicyclists and hikers in urbanized areas. Both banks of the river as well as the riverbed could contribute to a managed corridor that will enhance the natural resource and provide a host of outdoor activities. Improvements associated with the trail will afford access to the river and encourage outdoor exercise and adventure as well as provide opportunities to interpret the historical context and encourage visitors to nurture this natural resource.

Scenic River designation field studies have been completed on 56 miles of the Blackwater River from Proctors Bridge to the North Carolina line. The local governing Boards passed resolutions endorsing designation of the qualifying river segment. The localities are contacting legislative sponsors to submit the bill to the 2010 General Assembly. After acceptance by the General Assembly, the Governor signs the bill designating the river as a Virginia Scenic River. The Scenic River program raises the awareness of scenic rivers and helps protect their intrinsic qualities of scenic, recreational and historic attributes, and natural beauty. It is anticipated that the Blackwater will be one of 4 river segments designated in 2010 to celebrate the 40th anniversary of the Scenic River Program.

Planning District Projects:

1. The City of Hopewell obtained 25 acres adjacent to the Appomattox River Regional Park in Prince George to enhance public access at the park.
2. Two piers were constructed at the Patrick Copeland and Weston Manor sites in Hopewell.
3. Isle of Wight County recently acquired the Stoup property on the west side of the James River Bridge. This site provides public access to the river. The county's parks and recreation department is preparing a master plan for the property.
4. A new public access site in King and Queen County called the Thurston Haworth Recreational Area is approximately 150 acres located on the Dragon Run.
5. The City of Franklin recently completed the Blackwater Boat Landing in partnership with the Virginia Dept. of Game and Inland Fisheries.
(2007 *Virginia Outdoors Plan*)

Other issues

The VA Recreation Saltwater Fishing Fund has funds generated from fishing license fees for increasing public access for fishing in saltwater areas. However, \$300,000 of this Fund has been redirected to the VA Marine Resources Commission for marine officers staffing. The hope was expressed for the funding to return to the Fishing Fund for its original purpose and that alternate funds be garnered for marine officer staffing.

There is an effort to work through the Coastal Zone program for a social media campaign for using native plants for shoreline restoration. There is an opportunity to expand this effort.

3. Indicate if your state or territory has a printed public access guide or website. How current is the publication and/or how frequently is the website updated? Please list any regional or statewide public access guides or websites.

See above for information on the Middle Peninsula Chesapeake Bay Public Access Authority and Virginia Sea Grant public access database and information clearing house. A printed public access guide for the public's right for public ingress and egress is available for the Dragon Run Watershed in the Middle Peninsula that was developed as part of the Special Area Management Planning process for that area. (See the *Special Area Management Plan* Assessment section for additional information.) Additionally, a Blueways water trail map is available for the Middle Peninsula area online.

The DGIF maintains a website with public boat launch facilities with a description for each site. DCR maintains a website with state parks and other statewide recreation points. The DCR Virginia Outdoors Plan has several maps at the end of the regional analysis sections (website link above in the *Education and Outreach* section). Additionally, DCR is developing a database that will help manage all map and access type information.

DCR is updating the agency website to include additional information on water trails and public access. This information will better integrate and serve the localities and planning district commissions in the coastal zone area of the Commonwealth.

The Chesapeake Bay Program maintains a Chesapeake Bay Online Public Access Guide which was updated in 2005. The online version of this guide may be found at the website: <http://www.chesapeakebay.net/publicaccess.aspx>. The Chesapeake Bay Program also maintains a printed Public Access map, which was updated in 2005.

Priority Needs and Information Gaps

Using the table below, identify major gaps or needs (regulatory, policy, data, training, capacity, communication and outreach) in addressing each of the enhancement area objectives that could be addressed through the CMP and partners (not limited to those items to be addressed through the Section 309 Strategy). If necessary, additional narrative can be provided below to describe major gaps or needs.

Gap or need description	Type of gap or need (regulatory, policy, data, training, capacity, communication & outreach)	Level of priority (H,M,L)
<p>1. Mapping and Website: There is a need to improve mapping at multiple scales and across many agencies and organizations, which will help planning at many different levels. Two different levels of mapping (with the same data sets, but with two different websites) are needed for public access within the state: the first is for the public, and the second is for professional planners at the local and state level.</p> <p>Specific needs for mapping are:</p> <ul style="list-style-type: none"> a) create a comprehensive and accessible statewide public access website; coordinate and compile existing public access data sources and websites into a more accessible and comprehensive format. b) identify and prioritize where more access is needed by the public at a regional scale. A starting point would be to see what data is currently available, and to see what the data gaps are for mapping. More comprehensive maps, using better databases, could help identify public access needs. Also, needs could be identified through regional surveys for specific information. Public decision-making around priority areas for public access could follow from this point at the regional level. c) specify the type of public access on the maps (i.e. hiking, boat ramp, etc.) with different symbols and more in-depth information. An opportunity was expressed to identify which lands that are listed as public lands but that aren't open to the public, such as Nature Conservancy preserves, on public access maps so the public doesn't try to inadvertently visit a closed site. d) ensure that public access mapping is current and 	<p>Data, communication and outreach, and possibly regulatory</p>	<p>H*</p>

<p>accessible – that all public access sites are mapped. A digital format would be the most helpful for this type of comprehensive mapping system.</p> <ul style="list-style-type: none"> e) train additional people in GIS mapping systems, particularly at the locality and PDC level, so they are able to access public access information from GIS-based mapping websites; f) promote online information so the public, policy makers and planners can utilize it, especially to reveal needs and gaps. Promote these websites to: 1) Localities, PDCs, and citizens so people know what kind of public access is available in their region, and 2) planning offices and officials for research, policy development and to get the information to the public regarding public access. g) help people learn how to access information such as the Land Conservation Data Explorer, Coastal GEMS, etc. Increase public awareness on these online data systems, and develop tools for users to have enough GIS familiarity to use them. h) develop new policy as needed to create new public access areas, based on what the data reveals as gaps in public access. <p>State agencies could consider partnering with each other and groups like the Virginia Tourism Corporation to create this important resource.</p>		
<p>2. Non-motorized boating: Non-motorized boating needs funding for all related infrastructure such as parking, signage, restrooms, camping, and ramps which are needed throughout coastal areas and along rivers. Non-motorized boat launches have been identified as a particularly strong need. Opportunities exist for localities to match funding, particularly as tourism increases, for non-motorized boat facilities and infrastructure. Land-to-water and water-to-land trails are needed. Additionally, there is a need to identify and acquire sites for beached boat access.</p>	Regulatory and capacity; could provide a funding mechanism for boat launches	H*
<p>3. Field Work and Mooring site identification: Field work is greatly needed for assessing conditions of public access sites, for identifying new sites for acquisition, and to enhance public access outreach and communication.</p> <p><i>Assessing conditions of public access sites.</i> An opportunity was identified at the state level for utilizing volunteers to conduct field work (or to ground-truth) public access sites at the local level, perhaps with coordination through Planning District Commissions, to assess the condition of public access sites, and</p>	Capacity, data, communication and outreach.	H*

<p>to identify needs and gaps on the ground at access sites. Universities and community colleges students could further be utilized to conduct this work as well. A common set of criteria could be used to quantify the condition of the public access site as well as future needs. There is a need for this as access sites either change hands, become private, or are no longer accessible, though they are currently noted as being public in Public Access guides.</p> <p>It is unlikely that state employees will be able to conduct this work due to a current (and likely foreseeable) lack of funding in travel and time available of state employees, hence the recommendation for volunteers to fulfill this function. However state or local staff would need to manage and coordinate volunteer programs and data collection. Managing the volunteers and the data they collect cannot be accomplished without dedicated staff time.</p> <p>There is a need for increased capacity and staff (at the state agency or Public Access Authority level) for direct outreach to property owners about the possibility gaining public access sites.</p> <p>A specific need is to identify potential areas for public mooring, particularly around the Middle Peninsula. As public access sites are lost and as private residential development increases, there may be a future need to develop a public mooring system. It will also be necessary to determine who should use them (for example, should users have access to the mooring on a first come, first served basis?), and where the public mooring would be located.</p>		
<p>4. Dredging: Dredging master planning is needed, particularly priority areas for dredging for recreational and commercial activity. The US Army Corps of Engineers dredges creeks on a rotational basis for commercial activity, but the level of dredging is currently not sufficient. Currently, Stimulus funding is increasing dredging coastal areas, but future dredging activity may be decreased due to a potential future lack of funding. The Public Access Authorities may develop dredging master plans to look at priorities for dredging areas locally and regionally.</p>	Capacity	H*
<p>5. Preservation/ Tourism: Preservation of the maritime and coastal community heritage and character is needed through a regulatory framework or mechanism. It was noted that once maritime structures (such as fishing, baiting and boating buildings) are gone, they are gone forever, and their presence is a hallmark presence in traditional</p>	Regulatory	H*

maritime communities.		
<p>6. Point source pollution: Additional funding is needed for addressing point source issues that are identified in beach monitoring. Solutions to point sources are often known, but funding is often lacking to investigation and response to pollution source. Funding for remediation of pollution sources is needed as well.</p>	Data, Capacity, Outreach	H*
<p>7. Conservation: There is a need for funding to identify lands for conservation, especially where species may be preserved, and funding to increase public awareness. Public awareness efforts could include contacting potential conservation landowners, educating owners regarding the need for land conservation, and the program DGIF (and other organizations and agencies) maintains for landowners to place their land in conservation easements (which allow for public access) and recreation programs. There is a need for purchases and easements for conservation lands.</p>	Capacity, Outreach	H*
<p>8. Planning: There is a need to map and plan for sea level rise across the state.</p>	Data, Capacity, Outreach	H*
<p>9. Local Staff: There is a need for dedicated, full-time GIS staff members at local governments and PDCs. It is important for these staff members to know what public access information is available and how to utilize it.</p>	Data, Capacity, Outreach	H*
<p>10. Acquisition and Infrastructure: There is a very strong need to identify and acquire public access sites, as well as the infrastructure needed to support those sites. Funding and support is strongly needed for the outright purchase of public access sites, as well as for needed infrastructure. Infrastructure and facilities for public access could include trails, boating access, camping, restrooms, floating platforms, wildlife viewing structures, interpretive signage, etc which are needed at both public and private public access sites. Examining the needs and wants of all coastal communities, as well as for the region as a whole, to determine priorities for implementation is needed (the last need could be partially met if Working Waterfront legislation is passed as an amendment to the Coastal Zone Management Act which would require planning by all coastal communities around public access and working waterfronts).</p> <p>Potential public access sites could be identified through examining the results of the VA Outdoors Plan Survey (managed by DCR), which indicates that there is a significant need for better access for boating, fishing, beaching and hiking, as well as</p>	All	H*

to develop new facilities, and finally (third priority by the public) is to enhance existing facilities.		
<p>11. Outreach: A public education and outreach program is needed to educate the public about their right to public access and how it is connected to the Public Trust Doctrine (see <i>Virginia Code</i> § 1-200, and <i>Virginia Code</i> § 28.2-1205 for additional information.) For example, many citizens are unaware that they are able to walk along the shoreline for purposes of fishing and fowling, even though in Virginia, property rights are extended to the low water mark. (Precedent-setting case law includes: Illinois Central Railroad v. Illinois, 146 U.S. 387 (1892). Martin v. Waddell (1842) 41 U.S. (16 Pet.) 367, 410. Pollard=s Lessee v. Hagen (1845) 44 U.S. (3 How.) 212, 228-29. Commonwealth of Virginia v. City Of Newport News 158 Va. 521, 164 S.E. 689 (1932) Evelyn v. Commonwealth of Virginia Marine Resources Commission, 46 Va. App. 618, 621 S.E.2d 130 (2005) Palmer v. Commonwealth of Virginia Marine Resources Commission, 46 Va. App. 78, 628 S.E.2d 84 (2006)</p>	Education and Outreach	M – H
<p>12. Funding: Operating funds are needed for Public Access Authorities, as well as funding for dedicated staff time to carry out PAA activities.</p> <p>Funding is needed across the board for obtaining new public access sites, operation and maintenance of existing sites, and staffing to support public access in Virginia. Additionally, funding for staff time is needed to address potential conflicts associated with public access at road endings.</p>	Capacity	M – H
<p>13. Surveys: Conducting a specific Outdoor Survey specific to the coastal zone. This should include addressing the problems of homeowners concerns around public access to identify residents’ ideas and concerns and to create outreach and awareness tools to help address those concerns.</p>	Education and Outreach	M – H
<p>14. Partnering/ Transparency: PDCs are restricted from sharing data provided to them by local governments. More transparency is needed, or more education in regards to freedom of information, so that localities will share data “still under development” without fear of lawsuits.</p>	Data, Capacity, Outreach	M
<p>15. Legal Assistance: There is a need for legal assistance for researching titles and legal land documentation to determine the correct and current ownership of properties being considering for purchase or</p>	Data, outreach	M

leasing through localities or the Public Access Authorities. For example, in one case a County thought they owned land that was going to be used for a boat ramp or fishing pier, but the Dept. of Game and Inland Fisheries ended up being the actual owner, and the site wasn't developed. One possibility could be to partner with Virginia law schools, to have law students perform this work as independent studies or internships.		
16. Planning: Marine spatial planning will need to be undertaken by local governments related to potential user conflicts and various activities that are taking place to allocate space and use in marine areas.	Data, Capacity	M

* The Virginia CZM Program recognizes that the majority of needs listed above have been assigned a high ranking. The public access issue will be addressed through the working waterfronts strategy and therefore gaps and needs will receive prioritization through implementation of this strategy.

Enhancement Area Prioritization

1. What level of priority is the enhancement area for the coastal zone (including, but not limited to, CZMA funding)?

- High** _____
Medium _____
Low _____

Briefly explain the level of priority given for this enhancement area.

The interagency Coastal Policy Team reviewed and ranked this issue at its February 17, 2010 meeting according to the following criteria: feasibility; importance and appropriateness. Up to 5 points were allotted to each of the three criteria so that a maximum score would be 15. Scores from 0-4.99 are considered low priority; 5-9.99 is medium priority and 10-15 is high priority. Public Access received a score of 10.88.

2. Will the CMP develop one or more strategies for this enhancement area?

- Yes** _____
No _____

Briefly explain why a strategy will or will not be developed for this enhancement area.

The issue of public access will be addressed through the CSI, Working Waterfronts strategy by coupling efforts to retain or enhance public access to regionally identified coastal areas for recreational as well as commercial water-dependent activities.

2000 Assessment

- High** _____
Medium _____
Low _____

2005 Assessment

- High** _____
Medium _____
Low _____

This Assessment (2010)

- High** _____
Medium _____
Low _____