

V. STATUS OF COMPLIANCE WITH REGULATORY REQUIREMENTS

A. Section 106 of the Historic Preservation Act

Two historic properties have been determined to be eligible for listing on the NRHP: the St. Frances de Sales Church, and the Onion-Rawls House. On September 23, 2009, the SHPO determined the St. Francis de Sales Church and Onion-Rawls House would not be adversely affected by the Preferred Alternative.

A Phase I Archeological Survey was conducted for the Study Area, which identified one site with archeological potential: the HaHa Branch Quartz Quarry site (18HA17). A Supplemental Phase I Archeological Survey was performed on the HaHa Branch Quartz Quarry site (18HA17). Based on the results of the Supplemental Phase I Archeological Survey, the MD SHPO determined on September 23, 2009 that there would be no archeological sites impacted by the Preferred Alternative (**Appendix C**).

B. Nongame and Endangered Species Conservation Act

Correspondence concerning State-listed threatened or endangered species with the Maryland DNR indicated possible occurrence of the state rare Ostrich Fern (*Matteuccia struthiopteris*) within the vicinity of the Study Area. MDTA conducted a survey in September 2006 for the Ostrich Fern, which did not identify any occurrence of Ostrich Fern within the Study Area. The DNR concurred with the findings and agree that there is no presence of Ostrich Fern in the Study Area. Except for the occasional transient individuals, no federally proposed, listed endangered or threatened species are known to exist within the Study Area.

C. Section 404 of the Clean Water Act

The Preferred Alternative will impact Waters of the United States, including wetlands. Based upon these impacts, Section 404 of the Clean Water Act requires MDTA to obtain a permit from the USACE. The USACE has actively participated in the NEPA and project planning process as a cooperating agency. MDTA will file a preliminary Jurisdictional Determination/Permit Application with the USACE to obtain the required Section 404 permit after the FONSI is approved. It is anticipated that the USACE will comply with NEPA and Section 404 requirements in making its permit decision. As the project moves into design and construction phases, if design modifications do occur, MDTA will coordinate with the USACE to determine environmentally friendly measures to address the modifications.