Network for Success
Local Programs Workshop

Environmental Session
Breakout Session # 1

Chip Ray – Virginia Department of Transportation
John Simkins – Federal Highways Administration
Paul Kohler – Virginia Department of Transportation
Leo Snead – Virginia Department of Transportation
Marc Holma – Virginia Department of Historic Resources
Locality Program Importance

Locality projects represent over 35% of total number of projects each year.

This represents 30% of total federal obligation last year.

Doesn’t matter who is doing the work, we’re all responsible.
Environmental Considerations

- Threatened and endangered species
- Archaeological Sites
- Historic Buildings and Structures
- Battlefields
- Air
- Noise
- Environmental justice
- Land use
- Displacements/Relocations
- Floodplain

- Wetlands, streams and water quality
- Permits
- Parks, recreation areas, wildlife refuges
- Prime farmland
- Invasive species
- Floodplains
- Hazardous materials
- Visual
Specific Environmental Considerations

- National Environmental Policy Act
- Noise
- Threatened and Endangered Species
- Cultural Resources
- Section 4(f)
What is NEPA?

National Environmental Policy Act of 1969
Responsibility of the Federal Government:

It is the continuing responsibility of the Federal Government to use all practicable means, consistent with other national policy, to improve and coordinate Federal plans, functions, programs, and resources to...

- act as trustee of the environment;
- assure safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- preserve important historic, cultural, and natural aspects of our heritage;
Responsibility of the Federal Government (cont.):

• **attain** the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other consequences;

• **achieve** a balance between population and resource use—producing high standards of living; and

• **enhance** the quality of renewable resources and maximize the recycling of depletable resources.

National Environmental Policy Act Sec. 101(b) [42 USC § 4331]
Policy and Principles of NEPA

In order to carry out this policy…

- NEPA established a decision making process, a procedure, commonly referred to as the “NEPA process” or the “environmental impact assessment process.”

Section 102 of the National Environmental Policy Act of 1969, 42 U.S.C. §4332
Policy and Principles of NEPA

Who has to comply with NEPA?

All Federal agencies have to comply with NEPA prior to making final decisions and taking final agency actions that could have environmental effects.
What actions are subject to NEPA?

NEPA applies to a wide range of federal decisions and actions that include:

- capital improvement projects carried out by federal agencies
- federal approvals of non-federal activities such as licenses and permits
- capital improvement projects carried out by non-federal agencies but funded with federal funds
When does NEPA apply?

Since NEPA requires agency decision makers to make informed decisions, the NEPA process must be completed before an agency makes a final decision on a proposed action or commits resources.
Policy and Principles of NEPA

What does environment effects encompass?

Social, Economic, Environmental (SEE impacts):

- **Social** (human environment) – people, communities, parks and other recreational facilities, historic resources, hazardous material sites, visual, noise, etc.
- **Economic** – businesses, farmlands, access issues, etc.
- **Environmental** (natural) – endangered and threatened species, wildlife, air quality, water quality, wetlands, floodplains, coastal barriers, etc.
Elements of the NEPA Process

- Development of project purpose and need as necessary
- Examination of alternatives as necessary
- Interagency coordination
- Assessment of impacts
- Public involvement
- Classes of actions (CE, EA, EIS)
- Documentation.
Navigating the NEPA Process

**Proposed Action**

**Coordination and Analysis**

**Significant Impact?**

**Uncertain**

**NO**

- Categorical Exclusion
  - Programmatic Categorical Exclusion
  - Blanket Categorical Exclusion
  - Coordination and analysis as needed
  - Document appropriately
  - Agency Action

**YES**

- Notice of Intent & Scoping Process
  - Draft Environmental Impact Statement (EIS)
  - Public Comment
  - Public Hearing
  - Final Environmental Impact Statement (EIS)
  - Record of Decision (ROD)
  - Agency Action

- Significant impact
  - No significant impacts
  - Finding of No Significant Impact (FONSI)
  - Agency Action
Navigating the NEPA Process

What is “Significance”? 

**Context**  
(project and resource setting)

**Intensity**  
(degree of impact or effect)

**Significance**
Types of NEPA Documents

Significant Impacts? – No

Categorical Exclusion (CE)

Council on Environmental Quality (CEQ): category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency (40 C.F.R. 1508.4);

FHWA: actions which meet the CEQ definition…and based on past experience with similar actions, do not involve significant environmental impacts (23 C.F.R. 771.117(a));
Categorical Exclusions

Three types of Categorical Exclusions (CEs) in Virginia:

• Documented/Regular CEs
  • 23 CFR 771.117(d)
  • FHWA/VDOT Programmatic CE Agreement

• Programmatic CEs
  • 23 CFR 771.117(c)
  • FHWA/VDOT Programmatic CE Agreement

• Blanket CEs
  • FHWA/VDOT Programmatic CE Agreement
Programmatic Categorical Exclusion Example

Programmatic Categorical Exclusion (PCE)

<table>
<thead>
<tr>
<th>Project Information</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Name:</strong></td>
<td>DMS Travel Time</td>
</tr>
<tr>
<td><strong>Federal Project #:</strong></td>
<td>NH-96A-9(115)</td>
</tr>
<tr>
<td><strong>Project Number:</strong></td>
<td>ITS0-96A-102, P101</td>
</tr>
<tr>
<td><strong>Project Type:</strong></td>
<td>Construction</td>
</tr>
<tr>
<td><strong>UPC:</strong></td>
<td>72659</td>
</tr>
<tr>
<td><strong>Charge Number:</strong></td>
<td>Multiple</td>
</tr>
<tr>
<td><strong>Route Number:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Route Type:</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Project Limit--From:</strong></td>
<td>NoVA Interstate System</td>
</tr>
<tr>
<td><strong>To:</strong></td>
<td>NoVA Interstate System</td>
</tr>
<tr>
<td><strong>Additional Project Description:</strong></td>
<td>The project will implement an automated travel dissemination system through the use of existing ITS infrastructure, located throughout the Northern Region. This pilot project will integrate travel time data; autonomously derive segmented travel times; generate optimal travel time messaging; and disseminate derived messaging to DMS, Dynamic Messaging Signs, located throughout the NRO.</td>
</tr>
<tr>
<td><strong>District:</strong></td>
<td>Northern Virginia</td>
</tr>
<tr>
<td><strong>City/County:</strong></td>
<td>Northern Virginia</td>
</tr>
<tr>
<td><strong>Residency:</strong></td>
<td>District Wide</td>
</tr>
</tbody>
</table>

The subject project meets the criteria for a Programmatic Categorical Exclusion in accordance with:

23 CFR 771.117
X Agreement approved by the Federal Highway Administration on December 29, 2004.

Description of PCE Category:

VA-20 ITS related activities including Traffic signal interconnect and synchronization projects.

IMPACTS:

**NO** Significant Impacts to Planned Growth or Land Use

**NO** Relocations

*Source: VDOT Environmental documents staff & Form EQ429 Project Type Description, 3/23/09.*

**NO** Substantial Land Acquisition

**NO** USCG Construction Permit, USACE Individual Section 404 Permit

*Source: VDOT Natural Resources staff, 03/17/09.*

**NO** Adverse Effect on Historic Properties

*Source: VDOT Regional Cultural Resources staff, 03/20/09.*

**NO** Use of Land Protected by Section 4(f)

**NO** Significant Air, Noise or Water Quality Impacts

*Source: CO Air Section; CO Noise Section; VDOT Natural Resources staff, 03/17/09.*

**NO** Significant Impacts on Travel Patterns

**NO** Changes in Interstate Access Control

**NO** Individual or Cumulative Significant Environmental Impacts

No further environmental documents will be required.
Categorical Exclusions

Blanket CEs

- Do not require FHWA approval
- Do not require submission of individual project documentation to FHWA
  - VDOT submits quarterly report to FHWA of BCEs issued
- 22 categories of projects/actions currently covered by agreement with VDOT
- Examples:
  - Traffic control and detector devices
  - Bridge joint crack and seal
  - Railway-highway crossing safety features
Categorical Exclusions

Blanket CEs (cont.)

- Examples (cont.):
  - Pavement overlays
  - Removal of outdoor advertising
  - Traffic signal interconnect
  - Gateways
  - Guardrail replacement
  - Pavement markings
NEPA Document Breakdown

Categorical Exclusions:
- 98.6%
  - Blanket: 47%
  - Programmatic: 47%
  - Documented/Regular: 6%

Environmental Assessments:
- 1.2%

Environmental Impact Statements:
- 0.2%
A public agency that has statewide jurisdiction, or a local unit of government acting through a statewide agency, may prepare NEPA documents.

23 CFR 771.109(c)(5)
The NEPA Umbrella

- The NEPA process also serves as a framework to satisfy other federal requirements related to…
  - Endangered Species
  - Historic Properties
  - Noise
  - Air Quality
  - Wetlands and Water Quality
  - Low-income and Minority Populations
  - And many more…
NOISE POLICY:
Regulations

- **National Environmental Policy Act (NEPA) of 1969**
  - Provides authority and responsibility to Federal agencies to evaluate and mitigate adverse environmental impacts caused by Federal actions

- **Federal-Aid Highway Act of 1970**
  - Mandates FHWA to develop standards for mitigating highway traffic noise

- **Noise Control Act of 1972**
  - Gives the USEPA the authority to establish noise regulations to control major noise sources

- **Title 23 of the Code of Federal Regulations, Part 772**
  - The FHWA regulations related to highway traffic noise
NOISE POLICY:
Noise scoping

• **Type I**
  - New location; substantially altering the vertical or horizontal geometry; adds capacity; auxiliary lanes (except turn lanes); alteration of interchanges; restriping for the purpose of through lanes; adding weigh stations, rest stops, ride-share lots, and toll plazas

• **Type II (Retrofit)**
  - A Type II or retrofit project involves the construction of noise abatement along an existing highway when not in conjunction with an improvement for that highway. VDOT does not participate in Type II or retrofit noise abatement.

• **Type III**
  - A Federal or Federal-aid highway project that does not meet the classifications of a Type I or Type II project. Type III projects do not require a noise analysis.
NOISE POLICY:
Noise terms

• **Warranted**
  • For noise abatement to be warranted, noise levels have to approach or exceed the noise abatement criteria.
  • Substantial increase, i.e. difference of 10 dBA or more between existing and future condition.

• **Feasibility**
  • VDOT requires that fifty percent (50%) or more of the impacted receptors experience 5 dB(A) or more of insertion loss; and
  • The determination that it is possible to design and construct the noise abatement measure

• **Reasonableness/Cost-effectiveness**
  • View points of the benefited receptors – 50% or more of the responding residents
  • Cost-effectiveness – 1,600 MaxSF/BR
    • At $36 ft² this equates to $57,600 per receptor
  • Noise reduction design goal – 7 dB(A) of insertion loss for at least one impacted receptor
# NOISE POLICY:
Noise Abatement Criteria

<table>
<thead>
<tr>
<th>Activity category</th>
<th>Activity $\text{Leq}(h)$</th>
<th>Evaluation location</th>
<th>Activity description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>57</td>
<td>Exterior</td>
<td>Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.</td>
</tr>
<tr>
<td>B(^3)</td>
<td>67</td>
<td>Exterior</td>
<td>Residential.</td>
</tr>
<tr>
<td>C(^3)</td>
<td>67</td>
<td>Exterior</td>
<td>Active sport areas, amphitheaters, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreation areas, Section 4(f) sites, schools, television studios, trails, and trail crossings.</td>
</tr>
<tr>
<td>D</td>
<td>52</td>
<td>Interior</td>
<td>Auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios.</td>
</tr>
<tr>
<td>E(^3)</td>
<td>72</td>
<td>Exterior</td>
<td>Hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in A–D or F.</td>
</tr>
<tr>
<td>F</td>
<td></td>
<td>Exterior</td>
<td>Agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing.</td>
</tr>
<tr>
<td>G</td>
<td></td>
<td></td>
<td>Undeveloped lands that are not permitted.</td>
</tr>
</tbody>
</table>

\(^1\) Either $\text{Leq}(h)$ or $L_{10}(h)$ (but not both) may be used on a project.  
\(^2\) The $\text{Leq}(h)$ and $L_{10}(h)$ Activity Criteria values are for impact determination only, and are not design standards for noise abatement measures.  
\(^3\) Includes undeveloped lands permitted for this activity category.
## NOISE POLICY UPDATES:
Comparison of Current and Proposed Policies

<table>
<thead>
<tr>
<th>Subject</th>
<th>Old Policy</th>
<th>New Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reasonableness criterion: cost-effectiveness</td>
<td>$30K per protected and/or benefited receptor</td>
<td>1,600 square feet per benefited receptor (the definition of protected has been eliminated and combined with benefited)</td>
</tr>
<tr>
<td>Reasonableness criterion: 7dBA design goal</td>
<td>Not addressed</td>
<td>7 dB(A) for noise reduction at least one (1) impacted receptor.</td>
</tr>
<tr>
<td>Reasonableness criterion: viewpoints of the</td>
<td>50% or greater of all notified receptors. A non response considered a vote</td>
<td>50% or greater of respondents. A non response considered a vote for the</td>
</tr>
<tr>
<td>benefited receptors</td>
<td>against the barrier (‘No’ vote).</td>
<td>barrier (‘Yes’ vote).</td>
</tr>
<tr>
<td>Reasonableness criterion: Special land uses</td>
<td>Not addressed</td>
<td>Includes a recreational calculation as reasonableness (cost-effectiveness) tool</td>
</tr>
<tr>
<td>(e.g. recreational areas)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feasible criterion</td>
<td>At least 5 dB(A) of insertion loss</td>
<td>At least 5 dB(A) of insertion loss at 50% or greater of the impacted receptors.</td>
</tr>
<tr>
<td>Exterior area of frequent human use</td>
<td>Outdoor, ground-floor only</td>
<td>Non-ground floor balconies are to be considered an outdoor usage area. However, there is a maximum barrier height limit of 30 feet.</td>
</tr>
</tbody>
</table>
# NOISE POLICY UPDATES:
Comparison of Current and Proposed Policies

<table>
<thead>
<tr>
<th>Subject</th>
<th>Old Policy</th>
<th>New Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>When undeveloped lands are considered “planned, designed, and programmed”. Now called “permitted.”</td>
<td>Plan approval.</td>
<td>Defined as building permit issuance</td>
</tr>
<tr>
<td>Third Party Funding</td>
<td>Allowed for barriers that exceed the $30K reasonableness criterion and aesthetics.</td>
<td>Only for aesthetics</td>
</tr>
<tr>
<td>Date of “Public Knowledge”</td>
<td>CTB location approval date</td>
<td>Approval of the Categorical Exclusion (CE), Environmental Assessment (FONSI), or Environmental Impact Statement (ROD)</td>
</tr>
</tbody>
</table>
NOISE POLICY:
Streamlining Under New Policy

• A no-build noise analysis is not required for CEs and EAs unless:
  • The project is classified as a Type I improvement on the interstate system and/or
  • FHWA has determined that there is a potential for a Section 4(f) “constructive use”

• A no-build noise analysis is always required for an EIS

• VDOT may analyze the no-build alternatives if it is determined to be appropriate

• Currently drafting language for FHWA approval that allows for qualitative noise analyses for qualifying projects
MITIGATION: Final Design Noise Analysis

• **Final Noise Abatement Design (iPM 59):**
  • Normally scheduled 30 days after iPM Activity 49.
    • Final Plans
    • Profile
    • Cross-Sections
    • Survey information

• **Project example**
  • Saved $414,000
NOISE POLICY UPDATES:
Treatment of “In-Kind Replacement” under Proposed Policy

• Scenario 1: An existing noise barrier is physically impacted and/or relocated as part of a Type I project
  – The same level of protection must be provided.
  – A proposed modification to an existing noise barrier shall not be subject to the reasonableness criterion if the site conditions require such modification:
    • E.g., if a barrier is moved down a fill slope, the height of the noise barrier must be increased to maintain the attenuation line (barrier top elevation).
    • E.g., if a proposed project relocates a barrier upslope, the same height of the barrier above ground must be maintained.
  – If additional modifications to the noise barrier are required to protect additional receptors impacted as a result of the Type I improvement, these modifications would be subject to the cost-effectiveness criterion.

• Scenario 2: An existing barrier is not physically impacted by the project but the project creates noise impacts that the existing barrier does not completely address
  – Any modifications to, or the replacement of, the noise barrier to address the impacts associated with the Type I improvement would be subject to the cost-effectiveness criterion.
Completing Reviews for Protected Species

Locally Administered Projects, Protected Species and the Fish and Wildlife Service
• In 2010, the FWS implemented use of the Online Review Process, using the IPaC (Information, Planning and Conservation) system
• VDOT had, to that point, used state databases to identify potential project concerns with sensitive species
• For projects that receive federal funds or that require federal permits, use of this system is required by both FHWA and the Corps of Engineers
For federally funded projects, the lead federal agency is FHWA
Protected Species

• Threatened, Endangered or Candidate Species, under the Endangered Species Act
• Bald and Golden Eagles, protected by BGEP
  – Includes nest locations and eagle concentration areas (summer and winter roosting areas)
• Other species, such as migratory birds and colonial nesting waterbirds, protected under the Migratory Bird Treaty Act.
Process

• VDOT conducts a preliminary review during the NEPA document phase
  – Searches GIS data layers for mapped species/resources
    • Natural Heritage data
    • DGIF data
  – Uses online data specified by FWS Online Review Process
– IPaC

– Critical Habitat mapper
Confirm species

- DGIF
- DNH
- IPaC
- Eagle Nest Locator

- Conduct necessary assessments
- Incorporate Special Provisions, if provided

Eagle Concentration Areas
Critical Habitat
Migratory birds
Locality Responsibility

Complete Species Conclusion Table

- No Effect
- Not Likely to Adversely Affect
- May Adversely Affect

Coordinate with FWS, following Online Review Process

Copy FHWA

Complete Section 7 Consultation, if required
Resources

FWS Online Review Process
  • http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews_Introduction.html

IPaC
  • http://ecos.fws.gov/ipac/

CCB Eagle Nest Locator
  • http://www.ccb-wm.org/virginiaeagles/locator.php

Eagle Concentration Areas
  • http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews_Step6b.html

Bald Eagle Management Guidelines
  • http://www.fws.gov/northeast/EcologicalServices/eagle.html

Critical Habitat Mapper
  • http://www.fws.gov/northeast/virginiafield/endspecies/Critical_Habitat.html
Avoiding the pitfalls to speed up the process

Marc Holma, Architectural Historian

Office of Review and Compliance

Department of Historic Resources
THE SECTION 106 PROCESS

**Initiate Section 106 Process**
- Establish undertaking
- Identify appropriate SHPO/THPO
- Plan to involve the public
- Identify other consulting parties

**Public Involvement**

**Identify Historic Properties**
- Determine scope of efforts
- Identify historic properties
- Evaluate historic significance

**Public Involvement**

**Assess Adverse Effects**
- Apply criteria of adverse effect

**Public Involvement**

**Resolve Adverse Effects**
- Continue consultation

**Public Involvement**

**No Undertaking/No Potential to Cause Effects**

**Undertaking is type that might affect historic properties**

**Historic Properties are affected**

**No Historic Properties Affected**

**No Historic Properties Adversely Affected**

**Memorandum of Agreement**

**Failure to Agree**

**Council Comment**
Identify Consulting Parties

• “Consulting party” = Individuals & organizations with a *demonstrated* interest in the undertaking and effects to historic properties

• Examples: Affected property owners, historical societies, home owners’ associations, environmental groups, Indian tribes, developers, local governments

• Done in consultation with DHR

• Don’t forget the public!

• Outreached based on nature of project and potential to affect historic properties
Define Area of Potential Effects

• “APE” = Geographic area within which an undertaking may *directly or indirectly* cause alterations to the character of an historic property.

• Includes noise, visual, ambient light, etc.

• Consider “reasonably foreseeable” alterations that may occur later in time, distance, and cumulative

• Done in consultation with DHR
Identification of Historic Properties

- “historic property” = building, structure, district, object or site listed in or eligible for NRHP

- Archives search at DHR

- Information from consulting parties and public

- Additional architectural and/or archaeological survey may be necessary or requested
Unanticipated Discoveries

• Usually involves an archaeological find
• Stop work in immediate vicinity
• For human remains contact law enforcement
• Notify DHR (and C.Ps.) within 48 hours
  – Include assessment of eligibility
  – Determination of effect
  – Steps to avoid or minimize Adverse Effects
• DHR has 48 hours to respond
Helpful Tips

• Educate yourself
  – Section 106, Section 4(f), NEPA, SERP, etc.
  – Learn the language

• Include concurrence page

• Use DHR’s electronic project filing (ePix)

• Mitigation
  – Look for the greatest public benefit
  – Involve consulting parties and public
  – Bring ideas to the table

• If you are not sure, ask
For Further Information on Section 106

Marc Holma
(804) 482-6090
Marc.holma@dhr.virginia.gov

Advisory Council on Historic Preservation
www.achp.gov
Section 4(f) of 1966 DOT Act

- Only applies to USDOT agencies.
- FHWA may not approve the use of a publicly owned park, recreation area, or wildlife and waterfowl refuge, or a historic site, unless:
  - There is no feasible and prudent alternative to such use, and
  - The project includes all possible planning to minimize harm.
  Or …
  - The use is determined to have only a de minimis impact on the Section 4(f) resource.
Section 4(f) Applicability

Parks and Recreation Areas

- Publicly owned
- Open to the public
- Major purpose is park or recreation
- Significant for meeting recreational needs
Section 4(f) Applicability

Wildlife / Waterfowl Refuges

- Publicly owned
- Major purpose as a refuge
- Significant property
- Does not have to be open to the public
Section 4(f) Applicability

Historic properties

- On or eligible for the National Register
  - Individually eligible properties
  - Contributing elements of historic districts
- Publicly or privately owned

Archeological sites

- National Register-eligible and important for preservation in place rather than for data recovery
- Publicly or privately owned
What is a Section 4(f) “Use”? 

- When land is permanently incorporated into a transportation facility 
  - Right-of-way acquisition 
  - Permanent easement 
- Temporary occupancy that is adverse in terms of the Section 4(f) preservation purposes 
- Constructive use – very rare
What is a Section 4(f) De Minimis Impact?

An impact that will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

- Mitigation and minimization of impacts is included in the de minimis determination.
Section 4(f) De Minimis Impact

Historic Properties

- Section 106 determination of “no adverse effect” or “no historic properties affected” and concurrence by VDHR

- Inform VDHR (and Advisory Council on Historic Preservation, if participating) of intent to make a de minimis impact finding based on their concurrence with Section 106 determination

- Consider views of Section 106 consulting parties
Section 4(f) De Minimis Impact

Parks, Recreation Areas, and Wildlife/Waterfowl Refuges

- Use does not adversely affect the activities, features, and attributes of the Section 4(f) resource
- Written concurrence on the above from the official(s) with jurisdiction
  - Concurrence is not on the de minimis determination
- Provide opportunity for public notice, review, and comment
Section 4(f) Flow Chart

Section 4() Resource Used?

Yes

Programmatic

Yes

Programmatic Evaluations (There are 5)

For certain project types and impact thresholds. Specific list of alternatives to be evaluated and mitigation required.

Programmatic or De Minimis Applies?

No

Individual Evaluation

No feasible and prudent avoidance alternative? All possible planning to minimize harm? Also agency coordination and legal review required.

Yes

No avoidance alternatives analysis required.

De minimis

Yes
• Locality

  – Responsible for complying with Project Agreement

  – Responsible to VDOT for compliance with State & Federal Environmental requirements

  – Responsible for implementing environmental commitments

  – If not done, project funding is jeopardized
Roles & Responsibilities

• VDOT
  – Responsible for complying with Project Agreement

  – Responsible to state agencies for State Environmental Review Process (SERP)

  – Responsible to FHWA for National Environmental Policy Act (NEPA)

  – Adopt & sign NEPA documents prepared by Locality

  – Technical assistance & guidance to Locality
Federal-Aid Requirements

Locality

Prepares NEPA documentation in accordance with VDOT / FHWA agreements

Conducts all technical studies

Provides NEPA documentation to VDOT

VDOT

Signs document

Coordinates NEPA with FHWA
Federal-Aid Requirements

Scope Changes

Locality prepares any additional NEPA documentation required by scope / footprint changes.

VDOT coordinates NEPA changes with FHWA.

Locality implements SERP / NEPA environmental commitments in PE, R/W, and Construction phases.
Federal-Aid Requirements

VDOT verifies environmental compliance with *R/W Re-evaluation, Environmental Certification Checklist, and PS&E Re-evaluation forms* before advertisement authorization.

Reports, forms, correspondence from Locality to VDOT allows completion.

VDOT conducts Environmental Quality Assurance reviews once a year on localities.
NEPA Document Commitments

NEPA is a process which results in a federal approval which are often contingent upon completing environmental commitments and providing compensation. The following are examples of typical environmental document commitments and compensation:

• Paper commitments
  • Commitments not incorporated into the final construction project
    • Surveys
    • Resource avoidance
    • Design minimization measures
    • Recordation of Cultural Resources prior to demolition
    • Coordination with a Regulatory Agency
    • Land preservation/conservation

• Construction Commitments
  • Commitments incorporated into the final construction project
    • Noise Abatement
    • Specified treatments of historic properties
    • Wetland Compensation Sites
    • Historic Markers
    • Pedestrian access/trails
    • Wildlife passage
    • Late Discovery for cultural resources
NEPA Document Commitments

Failure to implement commitments jeopardizes funding

Permit violations have fines / jail time

VDOT conducts environmental monitoring during construction
“Locally Administered Projects (LAP) Manual”

- Environmental requirements for federally funded projects in Chapter 15
- Additional guidance from District Environmental Manager
VDOT Project Coordinator best source of information

✓ District Environmental Managers & staff
VDOT Guidance & Requirements

Information & forms available on VDOT Web site