

CHAPTER 3 – EXCEPTIONS FROM THE PUBLIC HEARING PROCESS

A hearing process is not required for emergency projects, as well as those that are solely for highway maintenance, or operational improvements, or both, except when they:

- Involve emergency paving of unpaved secondary roads pursuant to § 33.1-70.2 of the Code of Virginia;
- Require the acquisition of right of way
- Changes the layout or function of connecting roadways or of the facility being improved
- Have an unfavorable effect upon abutting real property
- Otherwise have a significant adverse social, economic, environmental or other effect, or for which FHWA determines that a public hearing is in the public interest

Upon determination of the Project Manager that a project meets the criteria for Exceptions from the Public Hearing Process, a letter should be drafted for concurrence in this determination by the appropriate District Administrator (or his designee). Upon concurrence by the District Administrator, the Project Manager shall secure Design Approval from the appropriate Assistant District Administrator in a responsible charge position, notify the Project Team, and post the concurrence letter in the Project Documents section of IPM. The development of the project may then proceed to the next step in the project development process.

Exclusion Regulations: US 23 CFR771.111 (h)(2) (iii); Virginia Administrative Code 24 VAC 30-380-10; §33.1-70.2

3.1 - Definitions:

(based on § 33.1-23.02 (A); § 33.1-49; § 33.1-269 (10); § 33.1-89 (A) and 33.1-89.2)

- **Construction and reconstruction**—actions that add new capacity to the transportation network, replace completely an existing facility, or significantly improve the functionality of an existing facility. Reconstruction – replacing completely an existing facility or significantly improving the functionality of an existing facility. Rural Rustic Road projects fit into this category. Public involvement requirements will be considered to have been met by VDOT upon receipt of the standard County Board of Supervisors resolution requesting designation of the project/road as a Rural Rustic Road. See the Rural Rustic Road Guide on the Local Assistance Website.
- **Maintenance**—actions taken to preserve assets in current condition or restore them to original functionality. This includes the removal and replacement up through the base of a pavement structure.

- **Operations**—action taken to manage traffic flow on the network to promote the safe and efficient movement of traffic. This includes the installation of such traffic-control devices and the improvement of existing turn lanes as are necessary for the safe and efficient utilization of the highway as well as the planning, design and installation of devices and other equipment related to incident management and congestion management.

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