

## **SECTION 1.00 - GENERAL**

### **SEC. 1.01 - PURPOSE**

This policy statement ensures that highway locations and designs are consistent with federal and state laws and local goals and objectives. The policies and procedures explained are intended to give full opportunity for coordination and participation by the public before the final approval of highway locations and designs. A procedure for one or more public hearings is designed to provide for free and open discussion of controversial issues and concerns before development of the final design has reached a point that it is impractical to make extensive modifications.

This statement also confirms the policy of the Virginia Department of Transportation (VDOT) to consider a wide range of factors, including possible adverse economic, social, and environmental effects, in the development of a project.

It is VDOT's desire that final decisions on any project be in the best overall public interest, taking into consideration the need for safe and efficient transportation, public services, and the costs of eliminating or minimizing adverse effects.

This policy is in accordance with Federal Regulation 23 CFR 771.111(h) and 23 USC 128, Section 33.1-18 of the Highway Laws of Virginia, Virginia Department of Transportation Policy Memorandum DPM 1-11 and shall apply to all proposed highway projects of VDOT, regardless of the system or funding involved. The Federal Highway Administration (FHWA) has endorsed this policy for use on all Federal-aid highway projects.

Projects administered/developed by others that will be funded by federal and/or state funds must meet the Department's guidelines for public participation.

### **SEC. 1.02 - OVERVIEW OF CITIZEN INVOLVEMENT**

Citizens have numerous opportunities to express their viewpoints during the course of a project's development. They may voice their opinions and suggestions on a specific project at the District Pre-allocation Hearings and at the Tentative Allocation Hearings before a project is initiated. These views affect the Virginia Department of Transportation's (VDOT) decision on whether or not to proceed with a project and in the establishment of project priorities.



*Citizens who are affected by a public decision should:*

- *Be given accurate information,*
- *Have a voice in the decision,*
- *Be involved in the implementation of the decision!*

In addition to the citizen participation process provided by VDOT, local governing bodies provide citizens numerous opportunities to participate in the development of transportation programs. These local governing bodies, such as counties and cities, offer opportunities for citizen input through their recommendations and approvals on highway projects.

For projects with apparent major impact or public interest, VDOT solicits citizens' views through informal Citizen Participation Meetings, plus household and business surveys conducted through the agency's Environmental and Engineering sections. The views obtained influence the course of preliminary studies.

After sufficient data has been gathered and evaluated to allow development of feasible alternatives, a public hearing or an opportunity for a public hearing is provided. Depending on the magnitude of the project, the level of action may range from comprehensive advertising of meetings and displays of the proposals in several locations prior to the hearing to simple public notices with plans available for review and discussion at the local VDOT offices.

When a public hearing is held, the meeting may range from a series of large gatherings in a public auditorium, to a few persons gathered in a city, county, or local facility. If no hearing is held, the public participation may consist of a single citizen reviewing the plans with a department representative. Regardless of the amount of public input, all views are considered by VDOT. *The approving authorities also consider citizens' views before a decision is made for a project location.* On major projects citizens often have two formal opportunities for input into the project development process, once prior to deciding the location of a route and again prior to a commitment to specific design features.

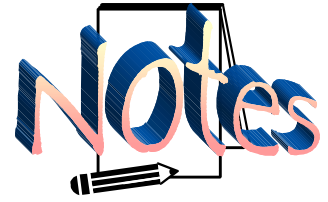
## **SEC. 1.03 - DEFINITIONS**

### **SEC. 1.03.1 – Citizen Informational Meeting**

A Citizen Informational Meeting is an opportunity for the public to review, in an informal setting, the ongoing development of project information.



*Which type of meeting will accomplish the needs for this stage of the project?*



### **SEC. 1.03.2 – Citizens Participation Meeting/Workshop**

A Community-based planning session, a collaborative effort between governments and the communities, serves to identify problems and involve all elements of the community. This session searches for the implementation of solutions to transportation issues.

### **SEC. 1.03.3 – Public Hearing**

A public hearing is a well-publicized opportunity for the VDOT to present its studies and policies while receiving and documenting comments from the public on each proposal concerning engineering, social, economic, and environmental factors and effects resulting from each possible course of action.

### **SEC. 1.03.4 – Location Public Hearing**

A Location Public Hearing is held before VDOT is committed to a specific route. This allows the Community to be included in the decision on the new location for projects that are determined to have different alternatives. This includes their general location, the type of facility necessary, or the transportation mode under consideration. The final determination of need for a Location Public Hearing is made by the State Location and Design Engineer upon careful evaluation of public interest and the concurrence of FHWA on Federal-aid projects. This type of hearing is held when preliminary engineering studies are of sufficient detail to indicate relative cost differences between the alternatives and the feasibility of their construction based on environmental studies and general engineering practices.

### **SEC. 1.03.5 – Design Public Hearing**

*A Design Public Hearing is held after the Commonwealth Transportation Board approves a route location or for projects that do not require extensive relocation but before the VDOT is committed to a specific design. A Design Public Hearing is also held for projects being developed on existing alignment. This type of hearing is held after a project field inspection is held and plans are completed to a stage that all right of way limits/lines (including easements), storm water management basins, noise wall locations, retaining wall locations and construction limits, and major design features are delineated on the plans and identified clearly, within the parameters of the information known to date. Existing property lines, property owners, buildings, and other topographical data allow easy identification of impacts to properties. Alternate proposals on major design features may be presented.*

### **SEC. 1.03.6 – Combined Location and Design Hearing**

A Combined Location and Design Public Hearing is held for a project that is determined not to have feasible alternative solutions for the general location, type of facility necessary, transportation mode, and where there is no major concern about the need for the project. Project plans are normally at the same stage of completion as for a Design Public Hearing. Alternative design features may be presented at this type of hearing.

### **SEC. 1.03.7 – Notice of Willingness to Hold a Public Hearing**

Requirements for a public hearing may be satisfied by a well-publicized Notice of Willingness to hold a public hearing. The status of the project is in accordance with the opportunity being given (location, design, or combined location and design). An opportunity to review the project plans and other information is given in this procedure. A public hearing is held if a written request is made and contact by VDOT cannot resolve the questions and concerns.

### **SEC. 1.03.8 – Social, Economic, and Environmental Effects**

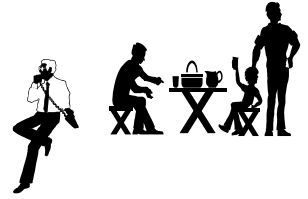
Important considerations in any VDOT project proposal are the direct and indirect benefits or losses to the community and transportation users. The Department considers the effects of its undertaking on the natural and human environment. Location and design studies include relevant and applicable considerations specific to each study. The following list is not exclusive, nor is each effect considered on every project, nor are they given equal weight in determining a particular location or design feature if considered.

1. Regional and community growth, including general plans and proposed land use, total transportation requirements, and status of the planning process;
2. Conservation and preservation of the general ecology of the area such as: park and recreational facilities, wildlife and waterfowl areas, historic and natural landmarks;
3. Public facilities and services, including religious, health and educational facilities, public utilities, and fire protection and other emergency services;



*Community is any group of people who share a common interest, a common belief or a common investment in the future...*

4. Community cohesion, including residential and neighborhood character and stability, highway impacts on minority and other specific groups and interests, and effects on the local tax base and property values;
5. Displacement of persons, businesses, farms, and nonprofit organizations, including relocation assistance, availability of adequate replacement housing, and economic activity (employment gains and losses, etc.);
6. Air, noise, and water pollution, including consistency with approved air quality implementation plans and any relevant federal or state water quality standards; and
7. Aesthetic and other values, including visual quality and the joint development and multiple use of space.



*Community involvement can help expand our resources.*



**SEC. 1.03.9 - Environmental Document** (for Federal Projects)

For those projects that require federal compliance, there are three classes of actions that prescribe the level of documentation required, in the National Environmental Policy Act (NEPA) process.

**Class I** Environmental Impact Statements (EISs). Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally require an EIS:

- (1) A new controlled access freeway.
- (2) A highway project of four or more lanes on a new location.
- (3) New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).
- (4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

**Class II** Categorical Exclusion (CEs) Actions that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CEs normally not requiring NEPA documentation is set forth in Sec. 771.117(c). When appropriately documented, additional projects may also qualify as CEs pursuant to Sec. 771.117(d).

**Class III** Environmental Assessment (EAs) Actions in which the significance of the environmental impacts is not clearly established. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

Further information on the NEPA process and definitions of these classes are contained in FHWA's regulations 23 CFR 771 (Appendix L-1), and in 40 CFR Parts 1500-1508 (Appendix L-2) concerning highway projects. Public involvement on Federal-aid highway projects is required and coordinated using the NEPA process.

### **Public Comment Period**

The public comment period for Federal-aid projects for which an Environmental Assessment (EA) has been prepared is 30 days from the date of public availability of the Environmental Assessment. The public comment period for Federal-aid projects for which a draft Environmental Impact Statement has been prepared is a minimum of 45 days. The Federal Register public availability notice establishes this period.

### **SEC. 1.03.11 – State Environmental Review Process**

During initial consideration of a transportation improvement, VDOT contacts local, state, and federal agencies and officials. Public advisory groups are also notified during these initial studies.

VDOT maintains a list of other persons and groups interested in specific projects or areas so they may be advised of certain actions and have opportunities for input. If a proposed project affects another state, views are solicited from the appropriate agencies within that state. All written views received during this coordination are made available to the public. Meetings other than the required public hearing(s) may be held at any time they would serve the public interest or when information from the public may affect the scope of the study or the choice of alternatives to be considered and may aid in identification of social, economic, and environmental effects. These meetings are normally conducted to permit maximum input and exchange of information.

### **SEC. 1.03.10 – Location, Location and Design or Design Approval**

Location Approval, or Location and Design Approval refers to the action by which the Commonwealth Transportation Board, (and FHWA on Federal-aid projects) indicate that the essential elements of public involvement for a highway project are satisfactory and acceptable for proceeding to the next appropriate step in project development.



*Citizens who are involved in the decision will support the outcome.*

*Design Approval refers to the action by which the Chief Engineer for Project Development (and FHWA on Federal-aid projects) indicates that the essential elements of public involvement for highway projects are satisfactory and acceptable for proceeding to the next appropriate step in project development.*

*Facilities must be accessible to all Citizens so all may participate comfortably.*

#### **SEC. 1.04 - NON-DISCRIMINATION UNDER STATE GRANTS AND PROGRAMS**

The Code of Virginia 51.5-40 (Appendix L-3) prohibits discrimination on the basis of disability in state assisted programs and activities.

Effective October 1, 1991, VR 602-01-2 (Appendix L-4) further specified that no qualified person with a disability shall on the basis of that disability be excluded from participation in, be denied the benefits of, or otherwise subject to discrimination under any program or activity which receives or benefits from state financial assistance or under any program or activity conducted by or on behalf of any state agency.

It further states, no qualified person with a disability shall, because a program or activity facilities are inaccessible, be excluded from participation in public hearings or public communications of any programs or activities governed by these regulations. To comply such programs and activities shall:

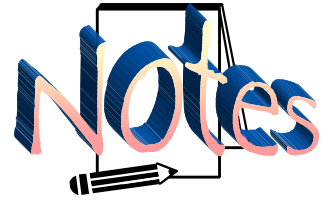
1. Take appropriate steps to insure that public meetings/hearings are held at facilities that provide accessibility to persons with a disability.
2. Take the appropriate steps to ensure that notice of public meetings/hearings are made available to individuals with impaired vision and hearing through means such as telecommunications devices, braille or typed material (open captioned) televised information, qualified sign language interpreters, other material or media.
3. Any program or activity governed by the regulations shall administer programs and activities in the most integrated setting feasible to meet the needs of qualified persons with a disability.

To further insure compliance with the act, the following actions are required. Public notices placed in daily and weekly newspapers alerting the public to upcoming meetings or public hearings to discuss proposed highway projects or changes in VDOT policy will state:

*Individuals requiring special assistance to participate in the meeting should contact, title and phone number of resident engineer, or in the Northern Virginia District, the administrator for construction or division head, when applicable.*



*Non-Discrimination - VDOT ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964. For information call, phone number of resident engineer, or in the Northern Virginia District, the administrator for construction or division head, when applicable.*



1. Whenever possible, meetings will be held in schools or other public buildings where persons using wheelchairs, walkers, crutches or canes can attend. If a person with a mobility disability notifies VDOT of his/her desire to attend the meeting, and it has been scheduled to be held in a building that was not readily accessible, either the meeting site should be changed, arrangements made to accommodate the individual, or arrangements made to bring information to the interested person and receive his/her testimony.
2. In a formal hearing setting, wireless microphones should be provided for use by persons who cannot easily get to the speakers microphone. An audio tape (reading of brochure and comments) of the meeting can be made available for persons who could not attend the meeting. Written testimony can be given up to ten days after the meeting is held, for inclusion in the hearing record. When necessary, arrangements will be made to go to a citizen to receive his/her testimony for inclusion in the hearing record.
3. The VDOT's Public Involvement Section of the Location and Design Division has collected a statewide list of persons qualified as signers. These persons can be hired to attend meetings when necessary and interpret for persons with hearing disabilities.



## **SECTION 2.00 - INFORMATION/ PARTICIPATION MEETINGS or WORKSHOPS**

### **SEC. 2.01 Location Study Workshop – Initial Meeting**

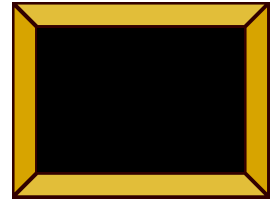
On all location studies, it is desirable to have a Citizen Participation Meeting as soon as possible after a project is assigned. This type of meeting allows the citizen to be involved at the beginning of the process. From a list of attendees, a mailing list can be initiated, contacts for future interactions are made, and facts of local interest are obtained.

Contact should be made with local governmental officials prior to scheduling a meeting of this type to determine if studies or ideas for development are available and to inform these officials of VDOT impending actions. In most cases, the District Administrator or his representative will do this; however, the Urban Division will handle contact for urban projects. This would also hold true for arrangements for a suitable meeting place. See Appendix G-4 for general guidelines when securing a location and arranging a meeting.

Location studies are prepared utilizing the best available database, and are the result of a concept that is conceived to alleviate a major need for improvement to the transportation system. Visual aids listed are not intended to be all-inclusive nor applicable to all projects but are representative of a "best case" situation needs for these and other displays and related requirements. The number of each type of visual aid is dependent upon the anticipated attendance and should be coordinated with the appropriate district/residency.

#### **SEC. 2.01.1 - Study Window**

A display showing the area to be studied, or study window, should be prepared utilizing a U.S.G.S. quadrangle sheet or mosaic with the extreme boundaries delineated. If there are well-known previously studied corridors in existence, these should also be shown in a corridor band.



*The initial meeting for a Location Study should be held before any decisions have been made about a location.*

### **SEC. 2.01.2 - Purpose Of The Study**

A general outline of the study and why it is being made, the citizens' part in the process, and the intended results should be prepared and utilized to inform the citizens of the purpose of the workshop. This information is generally placed at the entrance of the meeting room - far enough away from the actual displays to allow citizens to take time to read it.

### **SEC. 2.01.3 - Photos Of Interest In The Study Area**

Enlarged, color photos of traffic congestion, historic sites, prominent businesses, and municipal buildings, and other sites as appropriate can be mounted to form an attractive display which will convey to the citizen features they are familiar with in the study area and any potential problem areas.

### **SEC. 2.01.4 - Traffic Projections**

In some cases, traffic studies of a preliminary nature are available to support discussion about the need for a new location/improvement in the area. The existing level of traffic service is also helpful, if available.

### **SEC. 2.01.5 - Remaining Actions**

A tentative schedule of remaining actions on the project should be provided, giving general dates such as "Early 2000", if this information is available.

### **SEC. 2.01.6 - Information Meeting Handout**

A handout is desirable at a meeting of this type; it should contain as a minimum:

- The purpose of the location study,
- The purpose of the workshop and the citizens' involvement,
- A map showing the study window,
- A tentative schedule of remaining actions, and
- The name of a contact person should more information be desired.



*This handout should be of good quality as this is our initial attempt to gain the confidence of the citizenry relative to our ability to solve the problem. Appendix H-2 offers a "How to Guide" for preparing the brochure.*

### **SEC. 2.01.7 - Comment Sheet**

Along with the handout a comment sheet should be provided whereby the citizenry can provide their thoughts in writing. This sheet should indicate:

- The project number,
- To whom it should be mailed,
- A block which can be checked if they wish to be put on a mailing list to be notified of upcoming events, and
- Questions relevant to the information being sought about the study area. This comment sheet is the Project Engineer's tool for gathering the information necessary to move in the correct direction with the project.

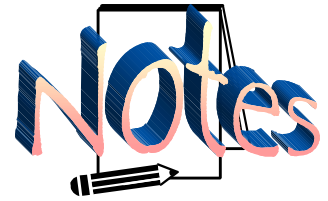
### **SEC. 2.01.8 - Miscellaneous**

Have state maps and other Department publications available at the meeting. Also, it may be advisable to have copies of the VDOT Right of Way and Utilities booklet available.

### **SEC. 2.02 – Government Workshop – (Alternatives Development and Consensus Building)**

As the study progresses, alternatives are evaluated, additional support data is obtained, and ultimately, the candidate build alternatives are chosen. At this stage, a meeting coordinated with local officials should take place. This will ensure close coordination between all involved and will eliminate confusion or misunderstanding as to which alternatives will be presented at the next public meeting.

A second location workshop may be held if further information is needed to narrow the selection of the candidate build alternatives.



### **SEC. 2.02.1 - Study Window**

The study window display should now show all alternatives initially considered and those now being considered as candidate build alternatives. It is desirable to have two separate displays showing these two distinct sets of alternatives. This should be shown on an aerial mosaic if at all possible to permit the citizenry to easily orient themselves.

### **SEC. 2.02.2 - Purpose of the Study**

A display showing the basic information as outlined in Section 2.01 and welcoming the citizens to this information meeting should be prepared.

### **SEC. 2.02.3 - Photos of Interest in the Study Area**

The same display as previously used or updated to show growth or change in the area should be available.

### **SEC. 2.02.4 - Traffic Projections**

At this stage of the study, traffic projections should be available and displayed in an effective manner.

### **SEC. 2.02.5 - Remaining Actions**

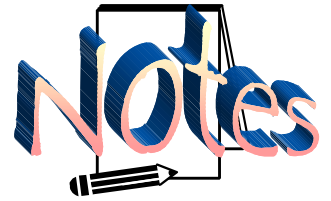
A tentative schedule of remaining actions giving a general time frame such as "Early 2000" should be displayed.

### **SEC. 2.02.6 - Video Presentation**

At this point in the study, enough data will be available to provide a video presentation. The program need not be lengthy, approximately 4-5 minutes is the ideal time. It should give a brief history of the project, all alternatives considered, the candidate build alternative, traffic projections, and remaining action. Additional layouts showing problem areas, points of interest, and anything else deemed important should be included. A program of this type, viewed prior to studying the displays, will answer a large number of the questions that arise at these meetings.



*Video presentation relative to the study should be prepared to answer frequently asked questions. Appendix IV offers a "How to Guide" for preparing a video script and gathering photos.*



### **SEC. 2.02.7 - Information Meeting Handout**

In addition to the information outlined in Section 2.01.6, the handout should contain a history of the previous meetings, proposed typical section, and a map providing the same candidate build alternatives as shown on the displays. See Appendix G-1 for further guidance.

### **SEC. 2.02.8 - Comment Sheet**

The same type sheet described in Section 2.01.7 should be used.

### **SEC. 2.02.9 - Miscellaneous**

State maps and other Department publications along with Right of Way and Utility booklets should be available at this meeting.

### **Sec. 2.03 - COMMUNITY WORKSHOPS AND INFORMATION MEETINGS** held prior to COMBINED LOCATION AND DESIGN/ DESIGN HEARING

In the same manner and for the same reasons as stated in Sections 2.01 and 2.02, it is desirable to have a Community workshop for location and design projects - both to receive and provide information. Usually one method of development has been selected and this meeting is to advise the citizenry of this and provide the opportunity to gather ideas as to the effects this design will have on the area. Occasionally, alternate methods of development are also presented at these meetings.

### **SEC. 2.03.1 - Purpose of Meeting**

Section 2.01.2 is applicable.

### **SEC. 2.03.2 - Photos of Interest on the Project**

Section 2.01.3 is applicable.

### **SEC. 2.03.3 - Aerial Mosaic or Continuous Roll of Plans**

Either a mosaic and/or a shaded continuous roll of plan sheets should be available for review. In addition, several sets of the plans, profiles, and cross-sections should be strategically placed in the review area. An alphabetized list of all landowners and the plan sheet location of their property should be prepared and available to those greeting the public.

**SEC. 2.03.4 - Traffic Projections**

Section 2.02.4 is applicable.

**SEC. 2.03.5 - Remaining Actions**

This display should show the tentative schedule of remaining actions giving a general time frame such as "Advertisement for construction is anticipated in "Early 2000".

**SEC. 2.03.6 – Video Presentation**

Section 2.02.6 is applicable.

**SEC. 2.03.7 – Public Meeting Handout**

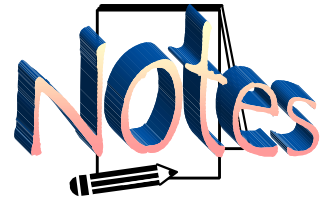
The handout should contain, as a minimum, a brief history of the project, a map showing the project, project purpose, storm water management basins (location and type), typical section, traffic data, right of way impacts, environmental review, remaining actions, cost (preliminary engineering, right of way acquisition, utility relocation, and construction cost), type of financing for the project, and the name of a contact person. See Appendix G-1 for further guidance.

**SEC. 2.03.8 - Comment Sheet**

Section 2.01.7 is applicable.

**SEC. 2.03.9 - Miscellaneous**

State maps and other Department publications along with the Right of Way and Utility booklet should be available at this meeting.



**SEC. 2.04 - COORDINATION AND SUBMISSION OF DATA PRIOR TO MEETINGS**

Coordination of effort is essential in the assembly of necessary data for the successful execution of a public meeting. The Public Involvement Section must receive, in writing, the Public Hearing Request Form (Appendix H-1) with all appropriate data from whoever has scheduled the meeting. This form must contain the date, time, place, and type of meeting in order that the proper advertisement can be prepared. Section 3.02 offers guidance as to the procedures that the Public Involvement Manager follows in advertising a public meeting/hearing. The following actions, review procedures, and time frames must be adhered to in order for the process to proceed smoothly:

Prior to Meeting	Review of Material	Final Review
Rough draft of booklets speech, and/or script for pre-recorded presentations	Project Manager	Public Involvement 60 Days
Rough drawings of visual aides, maps, etc., to be on display or in booklet	Project Manager	Public Involvement 60 Days
Typed draft of booklet and video script	Project Manager Urban, District, Residency & Others as Necessary	Public Involvement 45 Days
Rework of any material as necessary with major changes	ASAP	ASAP
Distribution of booklets must be available when advertisement is published	Send to: District Residency City or Town Central Office	30 Days
Completed speeches, slides, and displays	Project Manager Public Involvement District	20 days



*60 days advance notice for a request for a public hearing to be held ...*

*45 days advance notice for a request for a public information participation meeting to be held...*

*25 days advance notice for a posting a notice of willingness to hold a public hearing...*

## **SECTION 3.00 - PUBLIC HEARINGS**

### **SEC. 3.01 - HEARING REQUIREMENTS**

A separate Location Public Hearing, a Design Public Hearing, a Combined Location and Design Public Hearing, or a Notice of Willingness for those hearings, are provided when their need is determined in accordance with DPM 1-11 (Appendix L-6) or deemed appropriate by the Public Involvement Manager with approval of the State Location and Design Engineer. This determination is made after review with appropriate VDOT divisions, local and state government entities, and federal agencies taking into account the general complexity of the project and anticipated public interest.

**The two-hearing process** (separate Location Hearing and Design Hearing (see Appendix L-6)) will be provided for:

1. Major highway projects of four or more lanes on a new location; or
2. Projects impacting the area with significant social, economic, or environmental effects; or
3. Projects having two or more feasible solutions under serious consideration.

**A Combined Location and Design Public Hearing** will be held when determined by the guidelines that (the two-hearing process is not beneficial or necessary) the project would:

1. Require the acquisition of substantial amounts of additional right of way; or
2. Have a substantial change in the layout or functions of connecting roadways or the facility being improved; or
3. Have a substantial adverse effect on abutting property.

**A Design Public Hearing** will be held when determined by the guidelines that a hearing process would be beneficial and the project would:

1. Require additional right of way; or
2. Would have an adverse effect upon abutting real property;  
or
3. Significantly change the functions of the connecting roads of the facility being improved.



*Provide accurate unbiased information...  
Listen to the voice of the community ...  
Consider the information received in future decisions about the project...*



### **Notice Of Willingness To Hold Hearing**

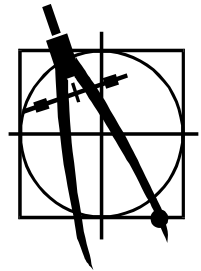
The posting of a Notice of Willingness to hold a Location/Design/Location and Design Public Hearing is provided when determined by the guidelines provided in DPM-1-11 (Appendix L-6) that a Public Hearing is not beneficial or necessary unless the project would:

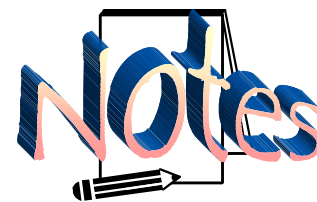
1. Require additional right of way; or
2. Would have an adverse effect upon abutting real property;  
or
3. Significantly change the functions of the connecting roads of the facility being improved.

On Federal-aid projects, one or more public hearings, or the willingness for hearing(s), are part of all Class I actions, almost all Class III actions, and most Class II actions. Class I actions normally involve the two-hearing process but may be handled with one combined hearing (or willingness) if the project is not controversial, or as determined by the State Location and Design Engineer and the Federal Highway Division Administrator. Hearings or the willingness for hearings for Class II and III actions are provided when the conditions in the preceding paragraphs of section 3.01 are met or when the State Location and Design Engineer or the FHWA's Division Administrator determines it to be in the public interest.

If a substantial amount of time (three years or more) passes before the appropriate location, design, or location and design approval is obtained, the Environmental Manager must review the adequacy of the previously prepared document and a review of the project is made. If there are significant changes in the population of the area, the land use regulations or impacts to environmental conditions of the project, the hearing requirements shall be fulfilled again.

If determined by FHWA (Federal-aid projects) or the State Location and Design Engineer to be in the public interest, a new hearing is held or willingness provided to consider supplemental information relative to proposals presented at previous hearings or new alternatives to previous proposals. If a Location Hearing was held, a new Location Hearing may be combined with a Design Hearing whether or not a Design Hearing has been previously held. The result of a new hearing is considered, and a new location and/or design approval is processed.





For State funded projects, if a substantial amount of time (three years or more) passes before the next major step (acquisition of right of way) in the project development process has begun, a Public Meeting may be held to provide the public with updated information about location, design, or location and design. If there are significant changes in the impacts or environmental conditions of the project, the hearing requirements must be fulfilled again.

### **SEC. 3.02 - PUBLIC HEARING PROCEDURES**

To insure compliance with state and federal regulations, Reference 23 USC 128, 23 CFR Part 771, 40 CFR Parts 1500-1508, 33.1-18 and maintain uniformity in the handling of public hearings, the following steps are necessary to schedule the hearing.

Essential information as outlined in this section must be sent to the Public Involvement Section 60 days prior to the scheduled meeting.

Upon notification of the type, date, time, and place of the public hearing to be held, the Public Involvement Manager will prepare the public notice and cover letter to the District Administrator which will include instructions to the District Administrator and others receiving copies of said memorandum concerning the conducting of the hearing and distribution of the hearing notice.

Each notice of public hearing shall contain:

- Date, time, and place of meeting and informal plan review (if appropriate).
- Description of project proposal.
- 8 1/2" x 11" project location map (to be included in all distributions and postings).
- Statement that tentative schedules will be discussed.
- Statement that right-of-way relocation assistance information will be available.
- Statement of opportunity for public comment period at meeting.
- Project identification information.

- Statement of availability of project information 30 days prior to the hearing and the availability of the environmental assessment (if Federally funded) at specified locations 30 days prior (minimum of 15 days) to the hearing. Environmental information is to include 106 and Agricultural Forestal District statements.
- Procedure for submitting written statements.
- Other statements concerning special arrangements for open forum, conduct of meeting, informal plan review meetings, etc, when necessary.
- Non-Discrimination notification and the procedure for individuals requiring special assistance to attend and participate in the meeting. (Revised 05/31/2002)
- Project identification information.

The Public Hearing Notice will be published at least twice in newspapers having general circulation in the vicinity of the project. The notice is also published in any newspaper having a substantial circulation in the area concerned, such as foreign language, local community, or minority-based newspapers. The first notice should appear 30 days prior to the hearing with the second notice appearing from 5 to 12 days before the hearing. For Federal-aid projects identified as Class I actions, the Draft Environmental Impact Statement must be available to the public 30 days prior to the hearing and 15 days after the hearing is held. Care should be taken to identify low-income or minority populations located in the project study area, and an extra effort should be made to ensure that these populations are informed of and have access to public involvement opportunities.

VDOT will publish a listing of all public meetings to be made available to other news media, other state agencies, federal agencies, local public officials, and any other interested groups or individuals who, by nature of their function, interest, or responsibility, may be interested in or affected by the proposal. A list is maintained by VDOT of persons, groups, agencies, etc., which express an interest in certain projects or specified areas.



*Public Hearing notices must appear in the newspaper 30 days prior to the scheduled hearing date...*

The following are responsible for specific tasks to insure compliance with notification of scheduled meetings.

- Upon notification the Public Involvement Manager will prepare the public notice and cover letter to the District Administrator and others receiving copies of the said notice.
- The Public Involvement Manager will notify the Clerk of the Court of the appropriate county, city, or town in which the proposed action is to occur and provide the Clerk of the Court a copy of the notice and project map for posting.
- The Public Involvement Manager will notify the Federal Highway Administration (if federally funded), appropriate federal and state agencies and special interest groups such as the Virginia Road and Transportation Builders Association, local Highway Commissions, and Bicycle organizations by its inclusion in the Monthly Public Meetings' Listing.
- The Office of Public Affairs will publish the notice at least twice in newspapers having general circulation in the vicinity of the project. The notice will also be published in any newspaper having a substantial circulation in the area concerned, such as foreign language, local community, or minority based newspapers. Public Hearing Notices must appear 30 days prior to the hearing and 5 to 12 days before the hearing. For Federal-aid projects identified as Class I actions, the notice must state that the Draft EIS is available for review or the date it will become available.
- The District Administrator or appointee will send the notice to all members of the Board of Supervisors of the county affected and to all members of the City or Town Council; to the County Administrator; City Manager; Mayor and other officials directly concerned.



*Sharing the responsibilities  
makes the task easier for  
everyone...*

- The District Administrator or appointee should in addition send copies to the appropriate Chairman of the Local Planning Bodies; President of the Local Chamber of Commerce; Heads of Local Civic and Citizen Associations; Superintendent of Local Schools; President of Local Parent Teacher Associations, and other officials as deemed appropriate.
- The District Administrator or appointee should also post the notice in the appropriate courthouse, post office, and other public places and buildings in the vicinity of the project.
- The Resident Engineer will post signs on the terminus of the project notifying the public of the proposed project in accordance with Traffic Engineering Divisions IIM, TE-303.
- For Location and Design project hearings and Design Project hearings, the Project Engineer in charge of the project will notify the adjacent property owners by direct mailing of the public notice and project location map of the public meeting a minimum of 20 days prior to the meeting. For all hearing types a direct post card mailing to the community/individuals affected by the proposal may be distributed.

### **SEC. 3.03 - DATA REQUIRED FOR A PUBLIC HEARING**

The formal or open forum public hearing provides VDOT an opportunity to advise and educate the citizens relative to the scope of the project. The following items should be prepared with care and in a manner easily understood by the general public.

#### **SEC. 3.03.1 - Aerial Mosaic**

An aerial mosaic of photos, preferably less than one year old, may be prepared and the proposed design shown at a convenient scale. Care should be taken to select the scale that best depicts the type project being presented 1"=1,000' (1:10000 plus/minus) may be satisfactory for location studies and 1"=25' (1:250 plus/minus) for small design projects. Care should be taken to depict the corridor or design in colors and patterns, which will contrast best with the mosaic's background. The number of mosaics needed should be determined by the anticipated attendance.



*Any questions call your coordinator for more information...*

### **SEC. 3.03.2 - Shaded Alternatives or Plans**

Prints of the alternatives shaded and exhibited in either a continuous roll and in sets of plan sheets are necessary for locating individual properties. To further facilitate the ease of property owners in locating their property, individual photographs should be taken of prominent structures on each of the adjacent properties and 2"x 3" photos should be displayed on the shaded plans. These should be mounted for ease of displaying and viewing. In addition, several sets of the completed plans including profiles and entrances should be available for viewing in the display area. Several sets of cross sections should also be available for use. A list of property owners and the sheet location of their property should also be available. This list should be in alphabetical order. The number of prints required should be determined by the anticipated attendance.

### **SEC. 3.03.3 – Renderings - Photographs with existing and proposed development**

One of the most effective ways to convey the effects of the proposal is through the use of renderings (before and after photographs of the project) on which the proposed alternative or design is shown. Excellent results can be obtained creating a three-dimensional effect that shows the proposal in its current setting. These services are available through the Location and Design Division's Public Involvement Section.

### **SEC. 3.03.4 - Traffic Display**

On large projects, a display showing traffic volumes (current and future), density, and level of service should be shown. These displays are prepared and provided by the Transportation Planning Division as deemed appropriate by the State Transportation Planning Engineer.

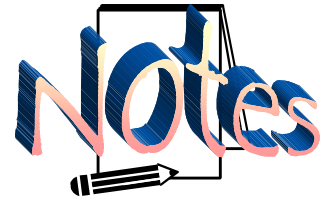
### **SEC. 3.03.5 – Environmental Documents**

Environmental documents must be available at the public hearing in sufficient quantities for viewing by the public. Likewise, sensitive environmental concerns should be depicted for public viewing (Noise Wall Study information, Historic Property impacts, Wetland Mitigation sites, etc...) with photos and written text. These displays are prepared and provided by the Environmental Division as deemed appropriate by the State Environmental Engineer.



*Displays should be developed in a manner that non-engineering Citizens can readily understand...*

If the Environmental Division does not display this information separately it will be included in the Location and Design displays by the Project Manager.



**SEC. 3.03.6 - Public Hearing Handout**

The public hearing handout should be of good quality, since it is VDOT's explanation of what we hope to accomplish. For guidance in preparing the handout, see Appendix G-1. The number required should be based on the anticipated attendance.

The Local Assistance Coordinator will provide verbiage for the handout for urban projects to the designer 60 days prior to the scheduled hearing date.

**SEC. 3.03.7 - Video Presentation**

At public hearings, videos are provided to augment both the engineering design and right of way displays. The engineering video presentation should include location maps, photos showing existing and projected design, typical sections, traffic volumes, environmental considerations, costs, and a tentative schedule of events are necessary, plus any other information deemed appropriate. The right of way information may be included in the project video if deemed appropriate by the Right of Way and Utilities Agent in charge of this project.

This video presentation provides an excellent way for VDOT to convey the proposed alternatives or design, and care should be taken to prepare these in a professional manner for maximum effectiveness.

**SEC. 3.03.8 - Miscellaneous**

Sufficient copies of the current Right of Way and Utilities booklet should be made available. Any current information deemed suitable for distribution, such as state maps and other pamphlets concerning VDOT programs, should also be available.

**SEC. 3.04 - COORDINATION AND SUBMISSION OF DATA PRIOR TO HEARING**

As has been stated previously, coordination and submission of data prior to the hearing is essential. Section 2.04 lists time frames and review procedures applicable to all public meetings.

### **SEC. 3.05 - CONDUCT OF PUBLIC HEARING**

Meetings, whether one-on-one, in small groups or in public events are the dominant method used to engage communities/citizens in discussions about the issues they face with the proposed project.

Public hearings vary in size and content, but their purpose remains consistent - to present the proposal and to receive the citizens' comments. Listed below are general regulations that pertain to public hearings. Additional guidance is found in Appendix G-2.

Public hearings are held at a time and place convenient for persons affected by the proposal. The procedures used may differ according to the project, area, and the number of persons expected to attend.

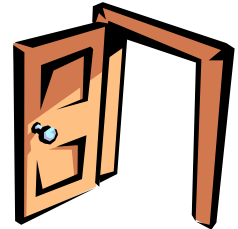
Provisions are made to accept written statements and other exhibits in place of, or in addition to, oral statements made for the record, within 10 calendar days after the hearing. A statement concerning the 10-day time limit for submission of such data and the appropriate address to which it should be sent must be provided.

An informational booklet should be provided to assure a basic understanding of the proposal (see Appendix G-1 for contents).

At a Location Hearing, information on any location alternatives studied should be available. At a Design Hearing, information on any design alternatives studied should be available, with an extensive project history.

VDOT provides as many responsible representatives as necessary to conduct the hearing and respond to questions. These representatives should always remain as long as necessary after the hearing to discuss individual concerns and questions relative to the project.

VDOT may arrange for local public officials or other responsible persons to conduct a hearing. However, it is the responsibility of VDOT to meet hearing requirements and to provide proper representation.



*Types of public hearings:  
Open Forum Hearing  
Traditional Hearing*



On a Federal-aid project, VDOT brochure contains information relevant to federal participation in funding and decision-making.

VDOT explains right of way acquisition procedures, the relocation assistance program, when appropriate, and announces the availability of a right of way and utilities booklet explaining that process.

VDOT explains that at any time after the hearing and before the location and/or design approval, all available information relating to the proposal is made available, upon request, for public inspection, copying, and purchase (including the transcript described in Section 3.06 when it becomes available).

**SEC. 3.06 – TRADITIONAL PUBLIC HEARING with an INFORMAL PLAN REVIEW**

A traditional hearing may be held if deemed appropriate by the designer or if a written request is received from the governing body of the county, city or town in which the route is proposed to be located or upon the written request of twenty-five citizens. The written request must be received within fourteen days following the first published notice of the hearing. If a traditional hearing is deemed appropriate, the information about the project is provided in a verbal format and in a visual format. A meeting room is set up to provide for the gathering of a full group meeting to provide and gather verbal information. It is desirable to have an informal plan review prior to the scheduled public hearing. These reviews should ideally be held immediately prior to the hearing and at hours convenient to the citizenry. This part of the process provides project information in a visual format and allows citizens to make written comments and suggestions on the proposed project.

The same data that is required for the informal plan review before the traditional public hearing as is required for the open forum public hearing and should be available for this meeting. This is shown in Section 3.02. The date, time and place for this informal plan review should be included in the public hearing notice. Staffing should consist of sufficient personnel from the various disciplines to adequately answer the citizens' questions.



*Traditional public hearings are probably the least effective way to discuss issues, offer alternatives and gain consensus on matters of public/community interest.*

### **SEC. 3.07 – OPEN FORUM PUBLIC HEARING**

A open forum public hearing (open house) encourages one-on-one discussions in an informal setting. This style of meeting has an easy, open and encouraging effect on citizens and can be very helpful in building a sense of consensus between the Department and citizens.

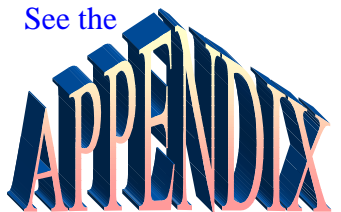
At the meeting, people familiar with all facets and features of the project visually display their information. The purpose of the open forum may be to suggest solutions or may simply be to give information and facts. The process is highly interactive with technical people presenting and fielding questions from communities, individual citizens, or small groups.

### **Sec. 3.08 - NOTICE OF WILLINGNESS POSTING PROCEDURES**

The requirements (definition section 3.00) for a public hearing may be satisfied by the publishing of a Notice of Willingness to hold a Public Hearing. The Willingness can be posted at the Location, Design, or Combined Location and Design stage, if the project meets the specifications for posting a notice of willingness. The Department may proceed with the posting of a notice of willingness without a completed environmental document, provided our Environmental Division determines that a Class II (categorical exclusion) level of environmental documentation is applicable and will be completed within forty-five days of the execution (expiration date) of the willingness.

Essential information as outlined in this section must be sent to the Public Involvement Section at least 25 days prior to the desired deadline for the expiration of the notice.

Upon notification of the Public Involvement Manager by the Project Manager of the desire to post a notice of willingness to hold a public hearing, the Public Involvement Manager will prepare the public notice and cover letter to the District Administrator which will include instructions to the District Administrator and others receiving copies of said memorandum concerning the notification of willingness to hold a public hearing and distribution of the notice and project location map.



for HOW TO GUIDE

Each notice of willingness to hold a public hearing shall contain:

- Description of proposal
- Locations with availability of maps, drawings and other information concerning the project proposal.
- Statement of willingness to hold a public hearing, procedure for submitting written request to hold a public hearing.
- Non-Discrimination notification. *(Added 05/31/2002)*
- Project identification information.

The notice of willingness to hold a public hearing will be published at least twice in newspapers having general circulation in the vicinity of the project. The notice is also published in any newspaper having a substantial circulation in the area concerned, such as foreign language, local community, or minority-based newspapers. The first notice should appear 15 days prior to the established expiration date with the second notice appearing from 5 to 7 days before the expiration date.

VDOT will publish a listing of all public meetings and willingness to hold public meetings to be made available to other news media, other state agencies, federal agencies, local public officials, and any other interested groups or individuals who, by nature of their function, interest, or responsibility, may be interested in or affected by the proposal. A list is maintained by VDOT's persons, groups, agencies, etc., that express an interest in certain projects or specified areas.

The following are responsible for specific tasks to insure compliance with the posting of the Notice of Willingness.

- Upon notification the Public Involvement Manager will prepare the public notice and cover letter to the District Administrator and others receiving copies of the said notice.

*A Notice to show a willingness to hold a public hearing must appear 15 days before the expiration date...*



- The Public Involvement Manager will notify the Clerk of the Court of the appropriate county, city, or town in which the proposed action is to occur and provide the Clerk of the Court a copy of the notice and project map.
- The Public Involvement Manager will notify the Federal Highway Administration, (if federally funded), appropriate federal and state agencies and special interest groups such as the Virginia Road Builders Association, local Highway Commissions, and bicycle organizations by its inclusion in the monthly public meetings' listing.
- The Office of Public Affairs will publish the notice at least twice in newspapers having general circulation in the vicinity of the project. The notice will also be published in any newspaper having a substantial circulation in the area concerned, such as foreign language, local community, or minority based newspapers. Notice of Willingness to hold a Public Hearing Notice must appear 15 days prior to the expiration date and 5 to 7 days before the expiration date.
- The District Administrator will send the notice to all members of the Board of Supervisors of the county effected and to all members of the City or Town Council; to the County Administrator; City Manager; Mayor and other officials directly concerned.
- The District Administrator should in addition send copies to the appropriate Chairman of the Local Planning Bodies; President of the Local Chamber of Commerce; Heads of Local Civic and Citizen Associations; Superintendent of Local Schools; President of Local Parent Teacher Associations, and other officials as deemed appropriate.
- The District Administrator should also post the notice in the appropriate courthouse, post office, and other public places and buildings in the vicinity of the project.



*Coordination is the key to success...*

- The Resident Engineer will post signs on the terminus of the project notifying the public of the proposed project in accordance with IIM TE-303.
- The Project Manager in charge of the project will notify the adjacent property owners by direct mailing of the public notice and project location map of the public meeting a minimum of 10 days prior to the expiration date.



If a request for a public hearing is received, the Public Hearing Notice will be posted in accordance with normal public hearing procedures. The notice cannot be posted until the environmental document is completed and available for public review.

If no request is received to hold a hearing or the request is rescinded, the Resident Engineer will notify the District to continue with the project location and/or design approval. The District Location and Design Engineer then notifies the State Location and Design Engineer and all other appropriate Divisions by memorandum to proceed with the location and/or design approval for the project. *After location and/or design approval has been obtained from the State Location and Design Engineer the Project Manager will notify the Division responsible for the final programming of the project (Local Assistance Representative).* The development of the project will proceed forward to right of way negotiations and acquisitions. If the project is federally funded, right of way approval cannot be obtained until the requirements of NEPA are satisfied.

## **SEC. 4.00 - WAIVER OF PUBLIC HEARING**

**SECTION 4.01 WAIVER OF PUBIC HEARING** - Hearings are not required for those projects that are solely for such improvements as resurfacing, widening of existing lanes, adding auxiliary lanes, replacing existing grade separation structures, installing traffic control devices, Hazard Elimination Safety (HES) funded projects, State Traffic Operations Safety Improvement projects (STOSIP) or similar improvements unless the project:

1. Requires the acquisition of additional right of way or;
2. Would have an adverse effect upon abutting real property or;
3. Would change the layout or function of connecting roads or streets or of the facility being improved.

This determination will be made in accordance with DPM-1-11 (Appendix L-6).

Approval for a waiver of a public hearing for such projects is obtained from the State Location and Design Engineer. After location and design approval has been obtained from the State Location and Design Engineer the Project Manager will notify the Division responsible for the final programming of the project Programming Division. The development of the project will proceed forward to right of way negotiations and acquisitions. If the project is federally funded, right of way approval cannot be obtained until the requirements of NEPA are satisfied.

## **SECTION 5.00 – PUBLIC HEARING PROJECT APPROVAL**

### **SEC. 5.01 - LOCATION AND/OR DESIGN APPROVAL**

**For projects on which a hearing or hearings are held, the following procedure will apply:**

After study of the comments received from the public, environmental considerations, costs, design standards, and the evaluations of any studies completed as a result of the public involvement procedures, the transcript will be compiled. The transcript will be summarized and addressed by the District Construction Engineer or District Location and Design Engineer to develop a recommendation to be forwarded to the State Location and Design Engineer (Public Involvement Manager) for distribution to the appropriate approving authority.

The Public Involvement Manager will distribute the transcript and recommendations to the appropriate reviewing authorities i.e., Local Assistance Division, Structures and Bridge Division, Transportation Planning Division, Traffic Engineering Division, Local Assistance Division, and the Assistant State Location and Design Engineer. The Public Involvement Manager will compile the information and recommendations for review by the State Location and Design Engineer.

1. The State Location and Design Engineer forwards his recommendation to the Chief Engineer for Program Development and, in turn, the Chief Engineer forwards it to the Commonwealth Transportation Board (CTB) for action. If the recommendation is approved by the Board, the State Location and Design Engineer (Public Involvement Manager) by letter notifies the Clerk of the Court of the appropriate county, city, or town in which the proposed action is to occur that the CTB has approved the project on a specific date. The District Administrator advises those who spoke or corresponded with VDOT as part of the hearing record. This response notes any changes in the proposal as presented at the hearing stage and responds directly to the individual comments or questions.



2. On Federal-aid projects, final approval is obtained when:
  - a) For Location or Location and Design Hearings, FHWA approves the Draft Environmental Document or Categorical Exclusion when the FHWA Division Administrator has received and accepted the public hearing transcripts, reports, and certifications required by Federal Codes.
  - b) For Design Hearings on interstate projects, FHWA approves the major design features after receipt of the design study report, the hearing transcript, and the formal request for approval (certification acceptance procedures are followed for non-interstate projects).
  - c) Project plans may be signed for Right of Way and Utilities 15 days after the record of decision has been posted.

#### **SEC. 5.02 – LOCATION AND/OR DESIGN APPROVAL**

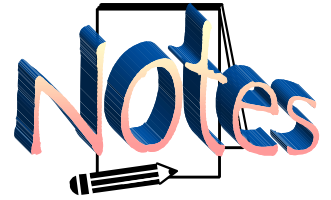
##### **For projects with posting of notice of willingness to hold hearing:**

Approval for projects on which Notice of Willingness procedures have been sufficient to satisfy the public involvement requirements, the following procedures will apply:

1. For state funded projects, approval is obtained when, all appropriate approving authorities (Structure and Bridge representative, Local Assistance representative, etc.) has reviewed and signed off on the project. This includes the Chief Engineer for Program Development through his delegated representative.



2. For federal-aid projects, final approval is obtained when:
  - a) For Location or Location and Design Notice of Willingness, FHWA approves the final environmental document, Environmental Assessment-Finding of No Significant Impact, or in the case of a Categorical Exclusion, which is approved prior to a Notice of Willingness, the FHWA Division Administrator has received and accepted the certifications required by Federal Codes.
  - b) For Design Notice of Willingness on interstate projects, FHWA approves the major design features after receipt of the design study report and the formal request for approval (certification acceptance procedures are followed for non-interstate projects).
3. Project plans may be signed for Right of Way and Utilities 15 days after the record of decision has been posted.



**SEC. 6.00 – REHEARINGS eliminated from state law 33.1-18 in July of 2000**

~~Any request for rehearing must be in compliance with Section 33.1-18 of the Highway Laws of Virginia (Appendix L 5). Immediately upon the receipt of notice of project approval by the Commonwealth Transportation Board, the clerk shall notify the board of supervisors or other governing body and the local road authorities of such county.~~

~~Within thirty days after the filing of such report with the clerk of the court, the board of supervisors or other governing body or local road authorities of such county, or any fifty or more freeholders thereof, may apply to the Board for a rehearing of its decision locating and establishing any such route and the Board shall thereupon, within a reasonable time, hear such application and its decision on such rehearing shall be final.~~



*The Commonwealth  
Transportation Board  
normally meets the 3<sup>rd</sup>  
Thursday of each month...*

**APPENDIX G-1**  
**GUIDANCE FOR THE PUBLIC HEARING HANDOUT**

A public hearing handout should contain sufficient information to provide a clear, understandable explanation of the project. Handouts should be prepared with the understanding that many are distributed prior to the hearing and are read by people who may not attend the hearing.

Contents should include:

1. Date, time and location of hearing, and plan review.
2. Project numbers and description.
3. Length of project.
4. Type of hearing (location, design, location and design).
5. Contact person and location of additional information.
6. Contact person for right of way information and relocation assistance.
7. Statement concerning any special arrangements for conduct of hearing (reserved speaker times, time limits, etc.).
8. Non-discrimination notification statement. (Added 05/31/2002)
9. Procedure for submitting written statements and exhibits for the hearing record.
  - a) For Interstate, Primary, and Arterial projects, all comments oral and written will be returned to the District Administrator. A printed postage paid comment sheet will be provided on all projects.
  - b) For Secondary projects all comments oral and written will be returned to the Resident Engineer. A printed postage paid comment sheet will be provided on all projects.
10. Map or maps as necessary for explaining project.
11. Project history (need for project, consistency with area planning, previous meetings, existing road system and problems, etc.).
12. Description of project, location and design features.

13. Explanation of special construction details (detours, maintenance of traffic, etc.).
14. Description of alternatives studied (not in detail unless viable).
15. If appropriate, a statement that an environmental document has been prepared and is available for review.
16. If appropriate, a summary of environmental impacts and mitigation measures (this may consist of a statement that there are no significant impacts).
17. A statement on flood plain involvement (if involved, try to explain briefly).
18. A statement on number of families, etc., to be displaced.
19. Cost figures and funding responsibilities.
20. Discussion on remaining actions necessary and schedule for right of way acquisition and construction activities.
21. A statement on maintenance responsibilities after completion.
22. A statement that all information, including the transcript, will be available for review and copying and the location where it will be available.
23. If a federal-aid project, explain federal-state relationship.

**Example Statement for Federal-aid Project:**

The Federal Highway Administration must approve the need for the proposed highway improvement, as well as the environmental document, plans, specifications, cost estimates, right of way acquisitions, and construction procedures.

This federal participation in the decision-making process provides an additional check to assure that federal, state, and local goals and objectives are met and that opportunity for public participation is provided. Federal and state regulations require that a wide range of factors and impacts are considered and that the final decisions are made in the best overall public interest.

## **APPENDIX G-2**

### **GUIDANCE FOR TRADITIONAL PUBLIC HEARING PRESENTATION**

A public hearing presentation by VDOT should last no longer than 25 minutes. There are usually three VDOT representatives (moderator, engineer, right of way and utilities) giving presentations. Special presentations may be made when necessary (environmental landscaping, traffic, etc). All presentations should be coordinated to avoid repetition or leaving out necessary data.

While the moderator and right of way and utilities presentations are generally the same format for each hearing, care should be taken to assure that all items are consistent with a particular hearing and project.

The moderator generally covers:

- The call to order and introduction.
- The project description and type of hearing.
- Introduction of local officials (if the officials desire to be introduced).
- Explanations of conduct of the meeting with special care to adjust to specific attendance and speaker registration procedures.
- Statement concerning submission of written comments and preparation of transcription.
- Availability of information (including transcript) in the future.
- Remaining actions prior to final approval of the project.
- Any project related data he/she feels should be a part of the general comments.
- Introduction of speakers including making sure all persons wanting to speak are accommodated (even if they did not pre-register).
- Maintain control of a meeting, including setting time limits if necessary and obtaining clear statements of name, address, and comments regarding the project.
- Closing the meeting.

### **The Engineering Presentation**

An engineering presentation should contain the same basic engineering information contained in the handout. It should be more general in content because the listeners do not have an opportunity to study maps and digest the information, as they would while reading a booklet. If there will be no special environmental presentation, the engineering should cover the environmental impacts and studies and should indicate availability of the environmental document if a Federal-aid project is being presented (coordination with the environmental section is necessary).

Slides or other special display materials should be used at all public hearings.

### **The Right of Way and Utilities Presentation**

VDOT's Right of Way and Utilities Division in the Central Office keeps current an example of a complete right of way presentation. Each presenter should adjust this presentation to meet his or her own speaking tone and style, as well as adjusting it to meet the requirements of a specific project. A Right of Way and Utilities representative will be available to discuss acquisition and relocation procedures after the formal presentation.

There is a slide presentation available to accompany this speech that should be used at all public hearings.

**APPENDIX G-3**  
**GUIDANCE ON ITEMS TO CHECK WHEN SETTING UP**  
**AND CONDUCTING PUBLIC MEETINGS**

**MAKING THE ARRANGMENTS –**

The District Administrator or his appointed representative is responsible for making all arrangements for and conducting the hearing. Careful thought should be given to the details of any public hearing, from making arrangements for a meeting time and place to final submission of transcripts. Responses to public comments and recommendations on project action should be carefully considered to indicate a willingness to respond to concerned citizenry input.

As a general rule, all public hearings will be held at night. Exceptions to this rule will be considered if there is good reason to believe that a day hearing will best serve the interests of local citizens.

**PROJECT INFORMATION AVAILABLE FOR REVIEW -**

Maps, drawings, and other information must be available for public inspection and copying in appropriate local highway offices, city and county offices, and public libraries as the need may dictate when the hearing advertised (30 days prior to meeting date) or willingness to conduct a hearing is advertised (15 days prior to expiration date). The information shall include a Location, Location and Design, or Design Study Report which will be made available to the public as interest is shown and distributed to all who attend the public hearing. The information for review and copying shall include, among other items, the Environmental Impact Statement (including Section 4(f) statement when applicable) or environmental assessment on all Federal Aid projects.

**MEETING WITH LOCAL CITIZENS BEFORE HEARING -**

On all projects in urban areas or other areas of unusual public interest, at least one meeting should be scheduled before the public hearing to informally review the project with local citizens and answer questions.

The District Administrator should notify all local civic and citizens' associations advising them of scheduled public hearings in their area. The District Administrator or VDOT engineers should arrange to meet with organizations that have a strong interest in the project, at their invitation, to informally discuss the proposed project prior to the scheduled hearing.

**ADDITIONAL/ALTERNATIVE ADVERTISEMENT OF MEETINGS -**

Advantage should be taken of any available opportunity for public service spot announcements on radio and TV just prior to the public hearings. This opportunity should be used to encourage people to attend the hearing who have interest in the traffic service of the road, as well as those who may live adjacent to the project.

**REGISTRATION -**

OPEN FORUM HEARINGS - Registration cards or sheets, which will provide as a minimum, the person's name, mailing address, will be provided to all who attend a public hearing.

FORMAL HEARINGS - Registration cards or sheets, should include as a minimum, the person's name, mailing address, an area to indicate if a Citizen wishes to speak. These cards should be turned in to the moderator.

**PUBLIC TESTIMONY -**

OPEN FORUM HEARINGS – A Verbatim Reporter should be available to receive public comment and should be placed in a location easily seen by those attending the meeting. An employee may take verbal comments via a tape recorder if it is deemed to be more physically responsible for small projects. However the recorder should never be left unattended.

FORMAL HEARINGS - Microphones for receiving public testimony should be conveniently placed near the front. Wireless microphones should be available for those individuals who cannot easily get to the speakers microphone. Arrangements should never be in a way that would intimidate the public. Arrangements should also be such that participants from the audience address the hearing officer rather than the audience.

Some ways of avoiding problems are:

- Make your best estimate of expected attendance, then prepare for twice that number (size of facility, number of handouts, number of Department representatives, number and type of displays, length of time needed for plan reviews, type of attendance and speaker registration to be used, etc.).
- Check for other activities scheduled for the same time at or near the facility as they would relate to noise, parking, and crowd control (basketball, baseball, football, bingo, classes, band practice, etc.).



- Make sure that the facility will have air conditioning or heating (whichever is necessary). Some newer buildings have computer systems that cut off systems after normal hours and facility managers are unable (or reluctant) to change the system. Also, check to see if the building must be emptied at a certain time.
- Check with the facility manager prior (one to two days) to any meeting to assure that the necessary people will be available to unlock the building, set up tables and chairs, indicate light switches, etc..
- Check parking area to make sure that all prime spaces are not filled with state vehicles, particularly if spaces close to the entrance are limited.
- Check to see if signs will be necessary to direct the public to the meeting area.
- Check with the representatives to assure they are prepared, that they know what time to arrive, that presentations have been coordinated and practiced, and that all displays and equipment will arrive on time. Representatives should be present from the engineering, environmental, right of way and utilities sections for most projects. Specialists may be requested to participate whenever necessary, and may include highway and traffic safety, transportation planning, landscaping, noise, water quality, bridge, drainage, etc., sections.
- If special displays are to be used, those representatives using them should set them up and review prior to the start of any meeting.
- Set up displays and registration material in as wide an area as is practical to spread the people out, avoiding confusion and a crowded appearance.
- Have pre-addressed comment sheets or envelopes available for submittal of written comments after the meeting.
- If practical, provide handouts, registration material, and displays outside the formal meeting room. This allows conversations with late arrivals without disrupting the meeting.

Assistance may be obtained from the Public Involvement Section of the Location and Design Division. Different registration and hearing formats may be desirable in certain cases and may be discussed with this section. Additional display equipment, directional signs, informational signs, and personnel may be obtained through this section.

**APPENDIX G-4**  
**GENERAL GUIDELINES FOR PLANNING MEETINGS**

**1. PUBLICITY/PROMOTION/NOTIFYING**

- notices - to whom
- letters of invitation
- directions to meeting place
- phone calls
- news releases
- contact with the media
- copies of speeches
- copies of meeting plan
- pictures/photographs
- bulletin boards
- personal contacts

**2. AGENDA AND RESOURCE MATERIALS**

- copies of agenda
- contact people on the agenda
- materials needed (e.g., reprints)
- committee reports
- previous agreement and time commitments

**3. RESPONSIBILITIES BEFORE THE MEETING**

- leadership assignments
- documentation or recording
- assignments
- resource persons
- observers
- "hosting" roles
- making reports
- trying out equipment
- test whether charts and posters are readable
- test electrical outlets
- preview films for timing and content

#### **4. SPACE CHECK**

- size and shape of space room (when, how)
- electrical outlets
- micro outlets
- engineering, where to be reached
- acoustics
- doors, bathrooms, and stairs (handicap accessibility)
- elevators
- heat/cold regulation/ventilation
- parking facilities (number and access)
- registration area/location
- transportation, access to facility (by buses)
- room set up arrangements
- access to meeting
- lighting
- name of custodian
- telephone access
- exhibit space wall space for displays, etc.
- emotional impact (color, aesthetics)

#### **5. EQUIPMENT FOR MEETING**

- tables (number, size, shape)
- chairs (comfort, number)
- microphones
- audio tape recorder
- audio tape cassettes
- video tape recorder
- video tape cassettes
- extension cords
- overhead projector

chalkboard, chalk, eraser  
bulletin boards  
projection table (s)  
flannel board  
easels (number)  
slide projector, screen, platform  
camera, film  
transparencies & appropriate pens & grease pencils  
TV and VCR

## **6. MATERIALS AND SUPPLIES FOR THE MEETING**

name tags  
pamphlets  
small tip felt pens, display materials  
large tip felt pens  
decorations  
masking tape  
posters  
paper clips  
instruction sheets  
pins/thumb tacks  
directional signs (to meeting)  
scissors, stapler, glue  
note pads  
pencils  
visual aids  
plans/mosaic  
renderings/photographs  
copies of study reports  
copies of environmental document

## **7. JUST BEFORE THE MEETING**

- seating arrangements
- extra chairs
- extra tables
- P.A. system checkout
- equipment (easels, screens, etc.)
- materials (paper, pens, etc.)
- ash trays
- thermostat
- opening and closing of windows
- registration set-up
- check that charts, boards, screens can be seen from everywhere
- agendas available
- other materials available: handouts, name tags, tables (number) and audio-visual equipment ready

## **8. AT THE MEETING**

- meeting, greeting, seating of participants and guests
- documentation - recording
- evaluation activity
- handing out materials
- operation of equipment
- process, review, stop sessions, etc.
- announcements

## **9. END OF MEETING AND AFTER**

- hold post meeting debriefing (what everyone gathered from comments from the meeting)
- collect unused materials
- return borrowed equipment
- clean up
- thank helpers
- read and analyze feed-back, prepare feedback and mail follow-up materials to
- remind people of their commitments (telephone and written)

**APPENDIX L-1**  
**Region 3's Environmental Guidebook ...**  
**23 CFR 771**  
**SUBCHAPTER H - RIGHT-OF-WAY AND ENVIRONMENT**  
**PART 771 - ENVIRONMENTAL IMPACT AND RELATED**  
**PROCEDURES**

Sec.

771.101 Purpose.

771.103 [Reserved]

771.105 Policy.

771.107 Definitions.

771.109 Applicability and responsibilities.

771.111 Early coordination, public involvement, and project development.

771.113 Timing of Administration activities.

771.115 Classes of actions.

771.117 Categorical exclusions.

771.119 Environmental assessments.

771.121 Findings of no significant impact.

771.123 Draft environmental impact statements.

771.125 Final environmental impact statements.

771.127 Record of decision.

771.129 Reevaluations.

771.130 Supplemental environmental impact statements.

771.131 Emergency action procedures.

771.133 Compliance with other requirements.

771.135 Section 4(f) (49 U.S.C. 303).

771.137 International actions.

Authority: 42 U.S.C. 4321 et seq.; 23 U.S.C. 109, 128, 138 and 315; 49 U.S.C. 303(c), 1602(d), 1604(h), 1604(i), and 1610; 40 CFR 1500 et seq.; 49 CFR 1.48(b) and 1.51.

Source: 52 FR 32660, Aug. 28, 1987, unless otherwise noted.

#### Sec. 771.101 Purpose.

This regulation prescribes the policies and procedures of the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA)(now FTA)for implementing the National Environmental Policy Act of 1969 as amended (NEPA), and the regulation of the Council on Environmental Quality (CEQ), 40 CFR 1500-1508. This regulation sets forth all FHWA, UMTA, and Department of Transportation (DOT) requirements under NEPA for the processing of highway and urban mass transportation projects. This regulation also sets forth procedures to comply with 23 U.S.C. 109(h), 128, 138, and 49 U.S.C. 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a-1 and 1610.

#### Sec. 771.103 [Reserved]

#### Sec. 771.105 Policy.

It is the policy of the Administration that:

- (a) To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation. FHWA and UMTA have supplementary guidance on the format and content of NEPA documents for their programs. This includes a list of various environmental laws, regulations, and Executive Orders which may be applicable to projects. The FHWA Technical Advisory T6640.8A, October 30, 1987, and the UMTA supplementary guidance are available from the respective FHWA and UMTA headquarters and field offices as prescribed in 49 CFR Part 7, Appendices D and G.
- (b) Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the social, economic, and environmental impacts of the proposed transportation improvement; and of national, State, and local environmental protection goals.
- (c) Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.



(d) Measures necessary to mitigate adverse impacts be incorporated into the action. Measures necessary to mitigate adverse impacts are eligible for Federal funding when the Administration determines that:

(8) The impacts for which the mitigation is proposed actually result from the Administration action; and

(2) The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. In making this determination, the Administration will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute, Executive Order, or Administration regulation or policy.

(e) Costs incurred by the applicant for the preparation of environmental documents requested by the Administration be eligible for Federal assistance.

(f) No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation. [52 FR 32660, Aug. 28, 1987; 53 FR 11065, Apr. 5, 1988.]

**Sec. 771.107 Definitions.**

The definitions contained in the CEQ regulation and in Titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply.

(8) Environmental studies--The investigations of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) Action--A highway or transit project proposed for FHWA or UMTA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

© Administration action--The approval by FHWA or UMTA of the applicant's request for Federal funds for construction. It also includes approval of activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(d) Administration--FHWA or UMTA, whichever is the designated lead agency for the proposed action.

(e) Section 4(f) -- Refers to 49 U.S.C. 303 and 23 U.S.C. 138. Section 4(f), which protected certain public lands and all historic sites, technically was repealed in 1983 when it was codified, without substantive change, as 49 U.S.C. 303. This regulation continues to refer to Section 4(f) because it would create needless confusion to do otherwise; the policies Section 4(f) engendered are widely referred to as "Section 4(f)" matters. [A provision with the same meaning is found in 23 U.S.C. 138 and applies only to FHWA actions.]

### **Sec. 771.109 Applicability and Responsibilities.**

(a)(1) The provisions of this regulation and the CEQ regulation apply to actions where the Administration exercises sufficient control to condition the permit or project approval. Actions taken by the applicant which do not require Federal approvals, such as preparation of a regional transportation plan are not subject to this regulation.

(2) This regulation does not apply to, or alter approvals by the Administration made prior to the effective date of this regulation.

(3) Environmental documents accepted or prepared by the Administration after the effective date of this regulation shall be developed in accordance with this regulation.

(b) It shall be the responsibility of the applicant, in cooperation with the Administration, to implement those mitigation measures stated as commitments in the environmental documents prepared pursuant to this regulation. The FHWA will assure that this is accomplished as a part of its program management responsibilities that include reviews of designs, plans, specifications, and estimates (PS&E), and construction inspections. The UMTA will assure implementation of committed mitigation measures through incorporation by reference in the grant agreement, followed by reviews of designs and construction inspections.

© The Administration, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administration in accordance with the CEQ regulation:

(1) Statewide agency. If the applicant is a public agency that has statewide jurisdiction (for example, a State highway agency or a State department of transportation) or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may prepare the environmental impact statement (EIS) and other environmental documents with the Administration furnishing guidance, participating in the preparation, and independently evaluating the document. All FHWA applicants qualify under this paragraph.

(2) Joint lead agency. If the applicant is a public agency and is subject to State or local requirements comparable to NEPA, then the Administration and the applicant may prepare the EIS and other environmental documents as joint lead agencies. The applicant shall initially develop substantive portions of the environmental document, although the Administration will be responsible for its scope and content.

(3) Cooperating Agency. Local public agencies with special expertise in the proposed action may be cooperating agencies in the preparation of an environmental document. An applicant for capital assistance under the Urban Mass Transportation Act of 1964, as amended (UMT Act), is presumed to be a cooperating agency if the conditions in paragraph © (1) or (2) of this section do not apply. During the environmental process, the Administration will determine the scope and content of the environmental document and will direct the applicant, acting as a cooperating agency, to develop information and prepare those portions of the document concerning which it has special expertise.

(4) Other. In all other cases, the role of the applicant is limited to providing environmental studies and commenting on environmental documents. All private institutions or firms are limited to this role.

**Sec. 771.111. Early coordination, public involvement, and project development.**

(a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document. Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, of the probable class of action and related environmental laws and requirements and of the need for specific studies and findings which would normally be developed concurrently with the environmental document.

(b) The Administration will identify the probable class of action as soon as sufficient information is available to identify the probable impacts of the action. For UMTA, this is normally no later than the review of the transportation improvement program (TIP) and for FHWA, the approval of the 105 program (23 U.S.C. 105).

© When FHWA and UMTA are involved in the development of joint projects, or when FHWA or UMTA acts as a joint lead agency with another Federal agency, a mutually acceptable process will be established on a case-by-case basis.

(d) During the early coordination process, the Administration, in cooperation with the applicant, may request other agencies having special interest or expertise to become cooperating agencies. Agencies with jurisdiction by law must be requested to become cooperating agencies.

(e) Other States, and Federal land management entities, that may be significantly affected by the action or by any of the alternatives shall be notified early and their views solicited by the applicant in cooperation with the Administration. The Administration will prepare a written evaluation of any significant unresolved issues and furnish it to the applicant for incorporation into the environmental assessment (EA) or draft EIS.

(f) In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall:

(1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(g) For major transportation actions, the tiering of EIS's as discussed in the CEQ regulation (40 CFR 1502.20) may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and areawide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures.

(h) For the Federal-aid highway program:

(1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 40 CFR parts 1500 through 1508.

(2) State public involvement/public hearing procedures must provide for:

(i) Coordination of public involvement activities and public hearings with the entire NEPA process.

(ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.

(iii) One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.

(iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive Orders, and regulations.

(v) Explanation at the public hearing of the following information, as appropriate:

(A) The project's purpose, need, and consistency with the goals and objectives of any local urban planning,

(B) The project's alternatives, and major design features,

(C) The social, economic, environmental, and other impacts of the project,

(D) The relocation assistance program and the right-of-way acquisition process.

(E) The State highway agency's procedures for receiving both oral and written statements from the public.

(vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.

(3) Based on the reevaluation of project environmental documents required by Sec. 771.129, the FHWA and the State highway agency will determine whether changes in the project or new information warrant additional public involvement.

(4) Approvals or acceptances of public involvement/public hearing procedures prior to the publication date of this regulation remain valid.

(i) Applicants for capital assistance in the UMTA program achieve public participation on proposed projects by holding public hearings and seeking input from the public through the scoping process for environmental documents. For projects requiring EIS's, a public hearing will be held during the circulation period of the draft EIS. For all other projects, an opportunity for public hearings will be afforded with adequate prior notice pursuant to 49 U.S.C. 1602(d), 1604(I), 1607a(f) and 1607a-1(d), and such hearings will be held when anyone with a significant social, economic, or environmental interest in the matter requests it. Any hearing on the action must be coordinated with the NEPA process to the fullest extent possible.

(j) Information on the UMTA environmental process may be obtained from: Director, Office of Planning Assistance, Urban Mass Transportation Administration, Washington, DC 20590. Information on the FHWA environmental process may be obtained from: Director, Office of Environmental Policy, Federal Highway Administration, Washington, DC 20590.

**Sec. 771.113 Timing of Administration Activities.**

(a) The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in Sec. 771.117(d)), purchase of construction materials or rolling stock, or project construction shall not proceed until the following have been completed:

- (1)(i) The action has been classified as a categorical exclusion (CE), or
  - (ii) A FONSI has been approved, or
  - (iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed;
- (2) For actions proposed for FHWA funding, the FHWA Division Administrator has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;
- (3) For activities proposed for FHWA funding, the programming requirements of 23 CFR par 450, Subpart B, and 23 CFR part 630, Subpart A, have been met.
- (b) For FHWA, the completion of the requirements set forth in paragraphs (a)(1) and (a)(2) of this section is considered acceptance of the general project location and concepts described in the environmental document unless otherwise specified by the approving official. However, such approval does not commit the Administration to approve any future grant request to fund the preferred alternative.

© Letters of Intent issued under the authority of Section 3(a)(4) of the UMT Act are used by UMTA to indicate an intention to obligate future funds for multi-year capital transit projects. Letters of Intent will not be issued by UMTA until the NEPA process is completed.[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

**Sec. 771.115 Classes of Actions.**

There are three classes of actions which prescribe the level of documentation required in the NEPA process.

(a)Class I (EIS's). Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally required an EIS:

- (1)A new controlled access freeway.
- (2) A highway project of four or more lanes on a new location.
- (3) New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, auto-mated guideway transit).

(4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

(b) Class II (CE's). Actions that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CE's normally not requiring NEPA documentation is set forth in Sec. 771.117(c). When appropriately documented, additional projects may also qualify as CEs pursuant to Sec. 771.117(d).

(c) Class III (EAs). Actions in which the significance of the environmental impacts is not clearly established. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

### **Sec. 771.117 Categorical Exclusions.**

(a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area, do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; and do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;

(2) Substantial controversy on environmental grounds;

(3) Significant impact on properties protected by Section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or

(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.



(c) The following actions meet the criteria for CEs in the CEQ regulation (Section 1508.4) and Sec. 771.117(a) of this regulation and normally do not require any further NEPA approvals by the Administration:

- (1) Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR part 630; approval of project concepts under 23 CFR part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations along or across a transportation facility.
- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
- (4) Activities included in the State's "highway safety plan" under 23 U.S.C. 402.
- (5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
- (6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
- (7) Landscaping.
- (8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (9) Emergency repairs under 23 U.S.C. 125.
- (10) Acquisition of scenic easements.
- (11) Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation.
- (12) Improvements to existing rest areas and truck weigh stations.
- (13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CE's only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CE's are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

(2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

(7) Approvals for changes in access control.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

a) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

b) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.

(12) Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) of the UMT Act. [Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.] Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(e) Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the list of categorical exclusions in paragraph © or (d) of this section, as appropriate.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

**Sec. 771.119 Environmental assessments.**

(a) An EA shall be prepared by the applicant in consultation with the Administration for each action that is not a CE and does not clearly require the preparation of an EIS, or where the Administration believes an EA would assist in determining the need for an EIS.

(b) For actions that require an EA, the applicant, in consultation with the Administration, shall, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which should be performed concurrently with the EA. The applicant shall accomplish this through an early coordination process (i.e., procedures under Sec. 771.111) or through a scoping process. Public involvement shall be summarized and the results of agency coordination shall be included in the EA.

© The EA is subject to Administration approval before it is made available to the public as an Administration document. The UMTA applicants may circulate the EA prior to Administration approval provided that the document is clearly labeled as the applicant's document.

(d) The EA need not be circulated for comment but the document must be made available for public inspection at the applicant's office and at the appropriate Administration field offices in accordance with paragraphs (e) and (f) of this section. Notice of availability of the EA, briefly describing the action and its impacts, shall be sent by the applicant to the affected units of Federal, State and local government. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(e) When a public hearing is held as part of the application for Federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained or reviewed. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the availability of the EA unless the Administration determines, for good cause, that a different period is warranted. Public hearing requirements are as described in Sec. 771.111.

(f) When a public hearing is not held, the applicant shall place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the publication of the notice unless the Administration determines, for good cause, that a different period is warranted.

(g) If no significant impacts are identified, the applicant shall furnish the Administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI. The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive orders, or provide reasonable assurance that their requirements can be met.

(h) When the Administration expects to issue a FONSI for an action described in Sec. 771.115(a), copies of the EA shall be made available for public review (including the affected units of government) for a minimum of 30 days before the Administration makes its final decision (See 40 CFR 1501.4(e)(2).) This public availability shall be announced by a notice similar to a public hearing notice.

(i) If, at any point in the EA process, the Administration determines that the action is likely to have a significant impact on the environment, the preparation of an EIS will be required.

**Sec. 771.121 Findings of no Significant Impact.**

(a) The Administration will review the EA and any public hearing comments and other comments received regarding the EA. If the Administration agrees with the applicant's recommendations pursuant to Sec. 771.119(g), it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents.

(b) After a FONSI has been made by the Administration, a notice of availability of the FONSI shall be sent by the applicant to the affected units of Federal, State and local government and the document shall be available from the applicant and the Administration upon request by the public. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(c) If another Federal agency has issued a FONSI on an action which includes an element proposed for Administration funding, the Administration will evaluate the other agency's FONSI. If the Administration determines that this element of the project and its environmental impacts have been adequately identified and assessed, and concurs in the decision to issue a FONSI, the Administration will issue its own FONSI incorporating the other agency's FONSI. If environmental issues have not been adequately identified and assessed, the Administration will require appropriate environmental studies.

**Sec. 771.123 Draft Environmental Impact Statements.**

(a) A draft EIS shall be prepared when the Administration determines that the action is likely to cause significant impacts on the environment. When the decision has been made by the Administration to prepare an EIS, the Administration will issue a Notice of Intent (40 CFR 1508.22) for publication in the Federal Register. Applicants are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.

(b) After publication of the Notice of Intent, the Administration, in cooperation with the applicant, will begin a scoping process. The scoping process will be used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7. For FHWA, scoping is normally achieved through public and agency involvement procedures required by Sec. 771.111. For UMTA, scoping is achieved by soliciting agency and public responses to the action by letter or by holding scoping meetings. If a scoping meeting is to be held, it should be announced in the Administration's Notice of Intent and by appropriate means at the local level.

(c) The draft EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The draft EIS shall evaluate all reasonable alternatives to the action and discuss the reasons why other alternatives, which may have been considered, were eliminated from detailed study. The draft EIS shall also summarize the studies, reviews, consultations, and coordination required by environmental laws or Executive Orders to the extent appropriate at this stage in the environmental process.

(d) An applicant which is a "statewide agency" may select a consultant to assist in the preparation of an EIS in accordance with applicable contracting procedures. Where the applicant is a "joint lead" or "cooperating" agency, the applicant may select a consultant, after coordination with the Administration to assure compliance with 40 CFR 1506.5(c). The Administration will select any such consultant for "other" applicants. (See Sec. 771.109(c) for definitions of these terms.)

(e) The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet.

(f) A lead, joint lead, or a cooperating agency shall be responsible for printing the EIS. The initial printing of the draft EIS shall be in sufficient quantity to meet requirements for copies which can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the draft EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The draft EIS shall be circulated for comment by the applicant on behalf of the Administration. The draft EIS shall be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency in accordance with 40 CFR 1506.9. The draft EIS shall be transmitted to:

(1) Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;

(2) Federal, State and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action. Copies shall be provided directly to appropriate State and local agencies, and to the State intergovernmental review contacts established under Executive Order 12372; and

(3) States and Federal land management entities which may be significantly affected by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such State or entity advise the Administration in writing of any disagreement with the evaluation of impacts in the statement. The Administration will furnish the comments received to the applicant along with a written assessment of any disagreements for incorporation into the final EIS.

(h) The UMTA requires a public hearing during the circulation period of all draft EISs. FHWA public hearing requirements are as described in Sec. 771.111(h). Whenever a public hearing is held, the draft EIS shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS shall be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in a newspaper similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments should be sent.

(i) The Federal Register public availability notice (40 CFR 1506.10) shall establish a period of not less than 45 days for the return of comments on the draft EIS. The notice and the draft EIS transmittal letter shall identify where comments are to be sent.



(j) For UMTA funded major urban mass transportation investments, the applicant shall prepare a report identifying a locally preferred alternative at the conclusion of the Draft EIS circulation period. Approval may be given to begin preliminary engineering on the principal alternative(s) under consideration. During the course of such preliminary engineering, the applicant will refine project costs, effectiveness, and impact information with particular attention to alternative designs, operations, detailed location decisions and appropriate mitigation measures. These studies will be used to prepare the final EIS or, where appropriate, a supplemental draft EIS.

**Sec. 771.125 Final Environmental Impact Statements.**

(a)(1) After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. Mitigation measures presented as commitments in the final EIS will be incorporated into the project as specified in Sec. 771.109(b). The final EIS should also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met.

(2) Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS shall identify those issues and the consultations and other efforts made to resolve them.

(b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

(c) The Administration will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted to the Administration's Headquarters for prior concurrence:

(1) Any action for which the Administration determines that the final EIS should be reviewed at the Headquarters office. This would typically occur when the Headquarters office determines that (i) additional coordination with other Federal, State or local governmental agencies is needed; (ii) the social, economic, or environmental impacts of the action may need to be more fully explored; (iii) the impacts of the proposed action are unusually great; (iv) major issues remain unresolved; or (v) the action involves national policy issues.

(2) Any action to which a Federal, State or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

(3) Major urban mass transportation investments as defined by UMTA's policy on major investments (49 FR 21284; May 18, 1984).

(d) The signature of the UMTA approving official on the cover sheet also indicates compliance with Section 14 of the UMT Act and fulfillment of the grant application requirements of Sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act.

(e) Approval of the final EIS is not an Administration Action (as defined in Sec. 771.107(c)) and does not commit the Administration to approve any future grant request to fund the preferred alternative.

(f) The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The final EIS shall be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes in accordance with 40 CFR 1502.19. The applicant shall also publish a notice of availability in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When filed with EPA, the final EIS shall be available for public review at the applicant's offices and at appropriate Administration offices. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.

**Sec. 771.127 Record of Decision.**

(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the Federal Register or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision as specified in 40 CFR 1505.2, summarize any mitigation measures that will be incorporated in the project and document any required section 4(f) approval in accordance with Sec. 771.135(l). Until any required ROD has been signed, no further approvals may be given except for administrative activities taken to secure further project funding and other activities consistent with 40 CFR 1506.1.

(b) If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS under Sec. 771.125(c). To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to Sec. 771.125(g).

**Sec. 771.129 Reevaluations.**

(a) A written evaluation of the draft EIS shall be prepared by the applicant in cooperation with the Administration if an acceptable final EIS is not submitted to the Administration within 3 years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether a supplement to the draft EIS or a new draft EIS is needed.

(b) A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant.

(c) After approval of the EIS, FONSI, or CE designation, the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

**Sec. 771.130 Supplemental Environmental Impact Statements.**

(a) A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever the Administration determines that:

(1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or

(2) New information or circumstances relevant to environmental concerns and bearing on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(b) However, a supplemental EIS will not be necessary where:

(1) The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or

(2) The Administration decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative. In such a case, a revised ROD shall be prepared and circulated in accordance with Sec. 771.127(b).

(c) Where the Administration is uncertain of the significance of the new impacts, the applicant will develop appropriate environmental studies or, if the Administration deems appropriate, an EA to assess the impacts of the changes, new information, or new circumstances. If, based upon the studies, the Administration determines that a supplemental EIS is not necessary, the Administration shall so indicate in the project file.

(d) A supplement is to be developed using the same process and format (i.e., draft EIS, final EIS, and ROD) as an original EIS, except that scoping is not required.

(e) A supplemental draft EIS may be necessary for UMTA major urban mass transportation investments if there is a substantial change in the level of detail on project impacts during project planning and development. The supplement will address site-specific impacts and refined cost estimates that have been developed since the original draft EIS.

(f) In some cases, a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location or design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

(i) Prevent the granting of new approvals;

(ii) Require the withdrawal of previous approvals; or

(iii) Require the suspension of project activities; for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, the Administration shall suspend any activities which would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.

**Sec. 771.131 Emergency Action Procedures.**

Requests for deviations from the procedures in this regulation because of emergency circumstances (40 CFR 1506.11) shall be referred to the Administration's headquarters for evaluation and decision after consultation with CEQ.

### **Sec. 771.133 Compliance with Other Requirements.**

The final EIS or FONSI should document compliance with requirements of all applicable environmental laws, Executive orders, and other related requirements. If full compliance is not possible by the time the final EIS or FONSI is prepared, the final EIS or FONSI should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met. Approval of the environmental document constitutes adoption of any Administration findings and determinations that are contained therein. The FHWA approval of the appropriate NEPA document will constitute its finding of compliance with the report requirements of 23 U.S.C. 128.

### **Sec. 771.135 Section 4(f) (49 U.S.C. 303).**

(a)(1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

(i) There is no feasible and prudent alternative to the use of land from the property; and

(ii) The action includes all possible planning to minimize harm to the property resulting from such use.

(2) Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

(b) The Administration will determine the application of section 4(f). Any use of lands from a section 4(f) property shall be evaluated early in the development of the action when alternatives to the proposed action are under study.

(c) Consideration under section 4(f) is not required when the Federal, State, or local officials having jurisdiction over a park, recreation area or refuge determine that the entire site is not significant. In the absence of such a determination, the section 4(f) land will be presumed to be significant. The Administration will review the significance determination to assure its reasonableness.

(d) Where Federal lands or other public land holdings (e.g., State forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. The Administration will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

(e) In determining the application of section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the State Historic Preservation Officer (SHPO) and appropriate local officials to identify all properties on or eligible for the National Register of Historic Places (National Register). The section 4(f) requirements apply only to sites on or eligible for the National Register unless the Administration determines that the application of section 4(f) is otherwise appropriate.

(f) The Administration may determine that section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

(1) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and

(2) The SHPO and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(1) of this section.

(g)(1) Section 4(f) applies to all archeological sites on or eligible for inclusion on the National Register, including those discovered during construction except as set forth in paragraph (g)(2) of this section. Where section 4(f) applies to archeological sites discovered during construction, the section 4(f) process will be expedited. In such cases, the evaluation of feasible and prudent alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

(2) Section 4(f) does not apply to archeological sites where the Administration, after consultation with the SHPO and the ACHP, determines that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken or where the Administration decides, with agreement of the SHPO and, where applicable, the ACHP not to recover the resource.

(h) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made and determinations of significance changed late in the development of a proposed action. With the exception of the treatment of archeological resources in paragraph (g) of this section, the Administration may permit a project to proceed without consideration under section 4(f) if the property interest in the section 4(f) lands was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by section 4(f) prior to acquisition.

(i) The evaluations of alternatives to avoid the use of section 4(f) land and of possible measures to minimize harm to such lands shall be developed by the applicant in cooperation with the Administration. This information should be presented in the draft EIS, EA, or, for a project classified as a CE in a separate document. The section 4(f) evaluation shall be provided for coordination and comment to the officials having jurisdiction over the section 4(f) property and to the Department of the Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. A minimum of 45 days shall be established by the Administration for receipt of comments. Uses of section 4(f) land covered by a programmatic section 4(f) evaluation shall be documented and coordinated as specified in the programmatic section 4(f) evaluation.

(j) When adequate support exists for a section 4(f) determination, the discussion in the final EIS, FONSI, or separate section 4(f) evaluation shall specifically address:

(1) The reasons why the alternatives to avoid a section 4(f) property are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the Section 4(f) property.

(k) The final Section 4(f) evaluation will be reviewed for legal sufficiency.



(l) For actions processed with EISs, the Administration will make the section 4(f) approval either in its approval of the final EIS or in the ROD. Where the section 4(f) approval is documented in the final EIS, the Administration will summarize the basis for its section 4(f) approval in the ROD. Actions requiring the use of section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notified by the Administration of section 4(f) approval. For these actions, any required section 4(f) approval will be documented separately.

(m) Circulation of a separate Section 4(f) evaluation will be required when:

(1) A proposed modification of the alignment or design would require the use of section 4(f) property after the CE, FONSI, draft EIS, or final EIS has been processed;

(2) The Administration determines, after processing the CE, FONSI, draft EIS, or final EIS that section 4(f) applies to a property;

(3) A proposed modification of the alignment, design, or measures to minimize harm (after the original section 4(f) approval) would result in a substantial increase in the amount of section 4(f) land used, a substantial increase in the adverse impacts to section 4(f) land, or a substantial reduction in mitigation measures; or

(4) Another agency is the lead agency for the NEPA process, unless another DOT element is preparing the section 4(f) evaluation.

(n) If the Administration determines under Sec. 771.135(m) or otherwise, that section 4(f) is applicable after the CE, FONSI, or final EIS has been processed, the decision to prepare and circulate a section 4(f) evaluation will not necessarily require the preparation of a new or supplemental environmental document. Where a separately circulated section 4(f) evaluation is prepared, such evaluation does not necessarily:

(i) Prevent the granting of new approvals;

(ii) Require the withdrawal of previous approvals; or

(iii) Require the suspension of project activities; for any activity not affected by the section 4(f) evaluation.

(o) An analysis required by section 4(f) may involve different levels of detail where the section 4(f) involvement is addressed in a tiered EIS.

(1) In the first-tier, broad-scale EIS is prepared, the detailed information necessary to complete the section 4(f) evaluation may not be available at that stage in the development of the action. In such cases, an evaluation should be made on the potential impacts that a proposed action will have on section 4(f) land and whether those impacts could have a bearing on the decision to be made. A preliminary determination may be made at this time as to whether there are feasible and prudent locations or alternatives for the action to avoid the use of section 4(f) land. This preliminary determination shall consider all possible planning to minimize harm to the extent that the level of detail available at the first-tier EIS stage allows. It is recognized that such planning at this stage will normally be limited to ensuring that opportunities to minimize harm at subsequent stages in the development process have not been precluded by decisions made at the first-tier stage. This preliminary determination is then incorporated into the first-tier EIS.

(2) A section 4(f) approval made when additional design details are available will include a determination that:

(i) The preliminary section 4(f) determination made pursuant to paragraph (o)(1) of this section is still valid; and

(ii) The criteria of paragraph (a) of this section have been met.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988]

(p) Use. (1) Except as set forth in paragraphs (f), (g)(2), and

(h) of this section, "use" (in paragraph (a)(1) of this section) occurs:

(i) When land is permanently incorporated into a transportation facility.

(ii) When there is a temporary occupancy of land that is adverse in terms of the statute's preservationist purposes as determined by the criteria in paragraph (p)(7) of this section; or

(iii) When there is a constructive use of land.

(2) Constructive use occurs when the transportation project does not incorporate land from a section 4(f) resource, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features or attributes of the resource are substantially diminished.

(3) The Administration is not required to determine that there is no constructive use. However, such a determination could be made at the discretion of the Administration.

(4) The Administration has reviewed the following situations and determined that a constructive use occurs when:

(i) The projected noise level increase attributable to the project substantially interferes with the use and enjoyment of a noise-sensitive facility of a resource protected by section 4(f), such as hearing the performances at an outdoor amphitheater, sleeping in the sleeping area of a campground, enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site's significance, or enjoyment of an urban park where serenity and quiet are significant attributes;

(ii) The proximity of the proposed project substantially impairs esthetic features or attributes of a resource protected by section 4(f), where such features or attributes are considered important contributing elements to the value of the resource. Examples of substantial impairment to visual or esthetic qualities would be location of a proposed transportation facility in such proximity that it obstructs or eliminates the primary views of an architecturally significant historical building, or substantially detracts from the setting of a park or historic site which derives its value in substantial part due to its setting.

(iii) The project results in a restriction on access which substantially diminishes the utility of a significant publicly owned park, recreation area, or a historic site;

(iv) The vibration impact from operation of the project substantially impairs the use of a section 4(f) resource, such as projected vibration levels from a rail transit project that are great enough to affect the structural integrity of a historic building or substantially diminish the utility of the building; or

(v) The ecological intrusion of the project substantially diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to the project or substantially interferes with the access to a wildlife or waterfowl refuge, when such access is necessary for established wildlife migration or critical life cycle processes.

(5) The Administration has reviewed the following situations and determined that a constructive use does not occur when:

(i) Compliance with the requirements of section 106 of the National Historic Preservation Act and 36 CFR part 800 for proximity impacts of the proposed action, on a site listed on or eligible for the National Register of Historic Places, results in an agreement of "no effect" or "no adverse effect";

(ii) The projected traffic noise levels of the proposed highway project do not exceed the FHWA noise abatement criteria as contained in Table 1, 23 CFR part 772, or the projected operational noise levels of the proposed transit project do not exceed the noise impact criteria in the UMTA guidelines;

(iii) The projected traffic noise levels exceed the relevant threshold in paragraph (p)(5)(ii) of this section because of high existing noise, but the increase in the projected noise levels if the proposed project is constructed, when compared with the projected noise levels if the project is not built, is barely perceptible (3 dBA or less);

(iv) There are proximity impacts to a section 4(f) resource, but a governmental agency's right-of-way acquisition, an applicant's adoption of project location, or the Administration approval of a final environmental document, established the location for a proposed transportation project before the designation, establishment, or change in the significance of the resource. However, if the age of an historic site is close to, but less than, 50 years at the time of the governmental agency's acquisition, adoption, or approval, and except for its age would be eligible for the National Register, and construction would begin after the site was eligible, then the site is considered a historic site eligible for the National Register;

(v) There are impacts to a proposed public park, recreation area, or wildlife refuge, but the proposed transportation project and the resource are concurrently planned or developed. Examples of such concurrent planning or development include, but are not limited to:

(A) Designation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation project and the section 4(f) resource, or

(B) Designation, donation, planning or development of property by two or more governmental agencies, with jurisdiction for the potential transportation project and the section 4(f) resource, in consultation with each other;

(vi) Overall (combined) proximity impacts caused by a proposed project do not substantially impair the activities, features, or attributes that qualify a resource for protection under section 4(f);

(vii) Proximity impacts will be mitigated to a condition equivalent to, or better than that which would occur under no-build scenario;

(viii) Change in accessibility will not substantially diminish the utilization of the section 4(f) resource; or

(ix) Vibration levels from project construction activities are mitigated, through advance planning and monitoring of the activities, to levels that do not cause a substantial impairment of the section 4(f) resource.

(6) When a constructive use determination is made, it will be based, to the extent it reasonably can, upon the following:

(i) Identification of the current activities, features, or attributes of a resource qualified for protection under section 4(f) and which may be sensitive to proximity impacts;

(ii) An analysis of the proximity impacts of the proposed project on the section 4(f) resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should not be attributed to the proposed project;

(iii) Consultation, on the above identification and analysis, with the federal, State, or local officials having jurisdiction over the park, recreation area, refuge, or historic site.

(7) A temporary occupancy of land is so minimal that it does not constitute a use within the meaning of section 4(f) when the following conditions are satisfied:

(i) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;

(ii) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the section 4(f) resource are minimal;

(iii) There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purpose of the resource, on either a temporary or permanent basis;

(iv) The land being used must be fully restored, i.e., the resource must be returned to a condition which is at least as good as that which existed prior to the project; and

(v) There must be documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions.

[52 FR 32660, Aug. 28, 1987; 53 FR 11066, Apr. 5, 1988, as amended at 56 FR 13279, Apr. 1, 1991]

**Sec. 771.137 International actions.**

(a) The requirements of this part apply to:

(1) Administration actions significantly affecting the environment of a foreign nation not participating in the action or not otherwise involved in the action.

(2) Administration actions outside the U.S., its territories, and possessions which significantly affect natural resources of global importance designated for protection by the President or by international agreement.

(b) If communication with a foreign government concerning environmental studies or documentation is anticipated, the Administration shall coordinate such communication with the Department of State through the Office of the Secretary of Transportation.

<Picture>

## APPENDIX L-2

# Environmental Justice in Minority Populations and Low-Income Populations

February 11, 1994

EXECUTIVE ORDER

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### FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

#### Section 1-1. IMPLEMENTATION.

1-101. Agency Responsibilities. To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Marian Islands.

1-102. Creation of an Interagency Working Group on Environmental Justice (a) Within 3 months of the date of this order, the Administrator of the Environmental Protection Agency ("Administrator") or the Administrator's designee shall convene an Interagency Federal Working Group on Environmental Justice ("Working- Group"). The Working Group shall comprise the heads of the following executive agencies and offices, or their designees: (a) Department of Defense; (b) Department of Health and Human Services; (c) Department of Housing and Urban Development; (d) Department of Labor; (e) Department of Agriculture; (f) Department of Transportation; (g) Department of Justice; (h) Department of the Interior; (i) Department of Commerce; (j) Department of Energy; (k) Environmental Protection Agency; (l) Office of Management and Budget; (m) Office of Science and Technology Policy; (n) Office of the Deputy Assistant to the President for Environmental Policy; (o) Office of the Assistant to the President for Domestic Policy; (p) National Economic Council; (q) Council of Economic Advisers; and (r) such other Government officials as the President may designate. The Working Group shall report to the President through the Deputy Assistant to the President for Environmental Policy and the Assistant to the President for Domestic Policy.

(b) The Working Group shall: (1) provide guidance to Federal agencies on criteria for identifying disproportionately high and adverse human health or environmental effects on minority populations and low-income populations; (2) coordinate with, provide guidance to, and serve as a clearinghouse for, each Federal agency as it develops an environmental justice strategy as required by section 1-103 of this order, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner; (3) assist in coordinating research by, and stimulating cooperation among, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Housing and Urban Development, and other agencies conducting research or other activities in accordance with section 3-3 of this order; (4) assist in coordinating data collection, required by this order; (5) examine existing data and studies on environmental justice; (6) hold public meetings at required in section 5-502(d) of this order; and (7) develop interagency model projects on environmental justice that evidence cooperation among Federal agencies.

1-103. Development of Agency Strategies. (a) Except as provided in section 6-605 of this order, each Federal agency shall develop an agency-wide environmental justice strategy, as set forth in subsections (b) - (e) of this section that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The environmental justice strategy shall list programs, policies, planning and public

participation processes, enforcement, and/or rulemakings related to human health or the environment that should be revised to, at a minimum: (1) promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) ensure greater public participation; (3) improve research and data collection relating to the health of and environment of minority populations and low-income populations; and (4) identify differential patterns of consumption of natural resources among minority populations and low-income populations. In addition, the environmental justice strategy shall include, where appropriate, a timetable for undertaking identified revisions and consideration of economic and social implications of the revisions.

(b) Within 4 months of the date of this order, each Federal agency shall identify an internal administrative process for developing its environmental justice strategy, and shall inform the Working Group of the process.

(c) Within 6 months of the date of this order, each Federal agency shall provide the Working Group with an outline of its proposed environmental justice strategy.

(d) Within 10 months of the date of this order, each Federal agency shall provide the Working Group with its proposed environmental justice strategy.

(e) Within 12 months of the date of this order, each Federal agency shall finalize its environmental justice strategy and provide a copy and written description of its strategy to the Working Group. During the 12 month period from the date of this order, each Federal agency, as part of its environmental justice strategy, shall identify several specific projects that can be promptly undertaken to address particular concerns identified during the development of the proposed environmental justice strategy, and a schedule for implementing those projects.

(f) Within 24 months of the date of this order, each Federal agency shall report to the Working Group on its progress in implementing its agency-wide environmental justice strategy.

(g) Federal agencies shall provide additional periodic reports to the Working Group as requested by the Working Group.

1-104. Reports to The President. Within 14 months of the date of this order, the Working Group shall submit to the President, through the Office of the Deputy Assistant to the President for Environmental Policy and the Office of the Assistant to the President for Domestic Policy, a report that describes the implementation of this order, and includes the final environmental justice strategies described in section 1-103(e) of this order.

Sec. 2-2. Federal Agency Responsibilities For Federal Programs. Each Federal agency shall conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under, such, programs, policies, and activities, because of their race, Color, or national origin.

Sec. 3 -3. Research, Data Collection, and Analysis

3-301. Human Health and Environmental Research and Analysis. (a) Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to, substantial environmental hazards.

(b) Environmental human health analyses, whenever practicable and appropriate, shall identify multiple and cumulative exposures.

(c) Federal agencies shall provide minority populations and low-income populations the opportunity to comment on the development and design of research strategies undertaken pursuant to this order.

3-302. Human Health and Environmental Data Collection and Analysis To the extent permitted by existing law, including the Privacy Act, as amended (5 U.S.C. section 552a): (a) each federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information assessing and comparing environmental and human health risks borne by populations identified by race, national origin, or income. To the extent practical and appropriate, Federal agencies shall use this information to determine whether their programs, policies, and activities have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations;

(b) In connection with the development and implementation of agency strategies in section 1-103 of this



order, each Federal agency, whenever practicable and appropriate, shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public unless prohibited by law; and

(c) Each Federal agency, whenever practicable and appropriate, shall collect, maintain, and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding Federal facilities that are: (1) subject to the reporting requirements under the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. section 11001-11050 as mandated in Executive Order No. 12856; and (2) expected to have a substantial environmental, human health, or economic effect on surrounding populations. Such information shall be made available to the public unless prohibited by law.

(d) In carrying out the responsibilities in this section, each Federal agency, whenever practicable and appropriate, shall share information and eliminate unnecessary duplication of efforts through the use of existing data systems and cooperative agreements among Federal agencies and with State, local, and tribal governments.

#### Sec. 4-4. Subsistence Consumption Of Fish And Wildlife.

4-401. Consumption Patterns. In order to assist in identifying the need for ensuring protection of populations with differential patterns of subsistence consumption of fish and wildlife, Federal agencies, whenever practicable and appropriate, shall collect, maintain, and analyze information on the consumption patterns of populations who principally rely on fish and/or wildlife for subsistence. Federal agencies shall communicate to the public the risks of those consumption patterns.

4-402. Guidance. Federal agencies, whenever practicable and appropriate, shall work in a coordinated manner to publish guidance reflecting the latest scientific information available concerning methods for evaluating the human health risks associated with the consumption of pollutant-bearing fish or wildlife. Agencies shall consider such guidance in developing their policies and rules.

Sec. 5-5. Public Participation and Access to Information (a) The public may submit recommendations to Federal agencies relating to the incorporation of environmental justice principles into Federal agency programs or policies. Each Federal agency shall convey such recommendations to the Working Group.

(b) Each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.

(c) Each Federal agency shall work to ensure that public documents, notices, and hearings relating to human health or the environment are concise, understandable, and readily accessible to the public.

(d) The Working Group shall hold public meetings, as appropriate, for the purpose of fact-finding, receiving public comments, and conducting inquiries concerning environmental justice. The Working Group shall prepare for public review a summary of the comments and recommendations discussed at the public meetings.

#### Sec. 6-6. General Provisions.

6-601. Responsibility for Agency Implementation. The head of each Federal agency shall be responsible for ensuring compliance with this order. Each Federal agency shall conduct internal reviews and take such other steps as may be necessary to monitor compliance with this order.

6-602. Executive Order No. 12250. This Executive order is intended to supplement but not supersede Executive Order No. 12250, which requires consistent and effective implementation of various laws prohibiting discriminatory practices in programs receiving Federal financial assistance. Nothing herein shall limit the effect or mandate of Executive Order No. 12250.

6-603. Executive Order No. 12875. This Executive order is not intended to limit the effect or mandate of Executive Order No. 12875.

6-604. Scope. For purposes of this order, Federal agency means any agency on the Working Group, and such other agencies as may be designated by the President, that conducts any Federal program or activity that substantially affects human health or the environment. Independent agencies are requested to comply with the provisions of this order.

6-605. Petitions for Exemptions. The head of a Federal agency may petition the President for an exemption from the requirements of this order on the grounds that all or some of the petitioning agency's programs or

activities should not be subject to the requirements of this order.

6-606. Native American Programs. Each Federal agency responsibility set forth under this order shall apply equally to Native American programs. In addition the Department of the Interior, in coordination with the Working Group, and, after consultation with tribal leaders, shall coordinate steps to be taken pursuant to this order that address Federally- recognized Indian Tribes .

6-607. Costs. Unless otherwise provided by law, Federal agencies shall assume the financial costs of complying with this order.

6-608. General. Federal agencies shall implement this order consistent with, and to the extent permitted by, existing law.

6-609. Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, nor does it create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order.

William J. Clinton

THE WHITE HOUSE,  
February 11, 1994.

**APPENDIX L-3**  
**CODE OF VIRGINIA 51.5-40**

§ 51.5-1

Declaration of policy

It is the policy of this Commonwealth to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment. To these ends, the General Assembly directs the Governor, Department for Rights of Virginians with Disabilities, Department for the Aging, Department for the Deaf and Hard-of-Hearing, Department of Education, Department of Health, Department of Housing and Community Development, Department of Mental Health, Mental Retardation and Substance Abuse Services, Board for Rights of Virginians with Disabilities, Department of Rehabilitative Services, Department of Social Services, Department for the Visually Handicapped, and such other agencies as the Governor deems appropriate, to provide, in a comprehensive and coordinated manner which makes the best use of available resources, those services necessary to assure equal opportunity to persons with disabilities in the Commonwealth. The provisions of this title shall be known and may be cited as "The Virginians With Disabilities Act."

§ 51.5-40

Nondiscrimination under state grants and programs

No otherwise qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving state financial assistance or under any program or activity conducted by or on behalf of any state agency. The Department for Rights of Virginians with Disabilities shall promulgate such regulations as may be necessary to implement this section. Such regulations shall be consistent, whenever applicable, with regulations imposed under the federal Rehabilitation Act of 1973, as amended, and the federal Americans with Disabilities Act of 1990.

§ 51.5-44

Rights of persons with disabilities in public places and places of public accommodation

A. A person with a disability has the same rights as other persons to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places.

B. A person with a disability is entitled to full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, subways, boats or any other public conveyances or modes of transportation, restaurants, hotels, lodging places, places of public accommodation, amusement or resort, and other places to which the general public is invited subject only to the conditions and limitations established by law and applicable alike to all persons.

C. Each town, city or county, individually or through transportation district commissions, shall ensure that persons with disabilities have access to the public transportation within its jurisdiction by either (i) use of the same transportation facilities or carriers available to the general public or (ii) provision of paratransit or special transportation services for persons with disabilities or (iii) both. All persons with disabilities in the jurisdiction's service area who, by reason of their disabilities, are unable to use the service for the general public shall be eligible to use such paratransit or special transportation service. No fee which exceeds the fee charged to the general public shall be charged a person with a disability for the use of the same transportation facilities or carriers available to the general public. Paratransit or special transportation service for persons with disabilities may charge fees to such persons comparable to the fees charged to the general public for similar service in the jurisdiction service area, taking into account especially the type, length and time of trip. Any variance between special service and regular service fares shall be justifiable in terms of actual differences between the two kinds of service provided.

D. Nothing in this title shall be construed to require retrofitting of any public transit equipment or to require the retrofitting, renovation, or alteration of buildings or places to a degree more stringent than that required by the applicable building code in effect at the time the building permit for such building or place is issued.

E. Every totally or partially blind person shall have the right to be accompanied by a dog, in harness, trained as a guide dog, every deaf or hearing-impaired person shall have the right to be accompanied by a dog trained as a hearing dog on a blaze orange leash, and every mobility-impaired person shall have the right to be accompanied by a dog, in a harness or backpack, trained as a service dog in any of the places listed in subsection B without being required to pay an extra charge for the dog; provided that he shall be liable for any damage done to the premises or facilities by such dog. The provisions of this section shall apply to persons accompanied by a dog (i) in harness, which is in training as a guide dog, provided such person is an experienced trainer of guide dogs; (ii) on a blaze orange leash, which is in training as a hearing dog, provided such person is an experienced trainer of hearing dogs; or (iii) in a harness or backpack, which is in training as a service dog, provided such person is an experienced trainer of service dogs.

As used in this chapter, "hearing dog" means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should respond.

As used in this chapter, "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

As used in this chapter, "mobility-impaired person" means any person who has completed training to use a dog for service or support because he is unable to move about without the aid of crutches, a wheelchair or any other form of support or because of limited functional ability to ambulate, climb, descend, sit, rise or perform any related function.

**Appendix L-4**  
**VR 602-01-2**

<http://www.usdoj.gov/crt/ada/>

AMERICANS WITH DISABILITIES ACT of 1990

Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD. (a) Issuance of Guidelines.--Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act. (b) Contents of Guidelines.--The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities. (c) Qualified Historic Properties.-- (1) In general.--The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards. (2) Sites eligible for listing in national register.--With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards. (3) Other sites.--With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

## Appendix L-5

### Section 33.1-18 of the Highway Laws of Virginia

#### § 33.1-18

##### Location of routes

The Commonwealth Transportation Board shall not locate and establish any route under subdivision (1) of §[33.1-12](#) until: the Department of Transportation has (i) published in a newspaper published or having a general circulation in the county, city, or town in which the route is to be located and established a notice of its willingness to hold a public hearing on the matter, (ii) notified the governing body of the county, city, or town in which the route is to be located of its willingness to hold a public hearing on the matter, and (iii) held a public hearing, if one has been requested.

If a public hearing is requested, written notice of the time and place of the hearing shall be given, not less than thirty days prior to the hearing, to the governing body of the county, city, or town in which the route is to be located and established. Not less than thirty days prior to the hearing, a notice of the time and place of the hearing shall also be published by the Department of Transportation at least once in a newspaper published or having a general circulation in the county, city, or town in which the route is to be located and established.

All public hearings on the location or possible location of a route shall be open forums that afford citizens opportunities to obtain route location information and other pertinent information on a proposed project, and to submit their hearing comments in writing or to present them directly to a verbatim recorder. In addition, upon the written request of a member of the governing body of the county, city, or town in which the route is proposed to be located, or upon the written request of twenty-five citizens, these public hearings shall afford citizens an opportunity to present their comments to representatives of the Department of Transportation directly, one speaker at a time, in a public forum following a traditional hearing format. A written request for a traditional hearing must be received within fourteen days following the first published notice of the hearing or willingness to hold a hearing.

Following the public hearing, if one is held as provided in this section, the Department of Transportation shall notify the local governing body of the affected county, city, or town of the Commonwealth Transportation Board's decision regarding the location and establishment of the route.

#### § 33.1-19

##### Effect of Board's rules and regulations

The rules and regulations together with any additions or amendments thereto, prescribed by the Board under the provisions of subdivision (3) of §[33.1-12](#), shall have the force and effect of law and any person, firm or corporation violating any such rule or regulation or any addition or amendment thereto shall be guilty of a misdemeanor and, upon conviction, be fined not less than \$5 nor more than \$100 for each offense. Such person shall be civilly liable to the Commonwealth for the actual damage sustained by the

Commonwealth by reason of his wrongful act. Such damages may be recovered at the suit of the Commonwealth Transportation Board and, when collected, paid into the state treasury to the credit of the Department of Transportation. But no such rules and regulations or additions or amendments thereto, or repeals thereof, shall become effective until sixty days shall have elapsed following their adoption by the Board.





## Appendix L-6 (DPM-1-11)

### VDOT DEPARTMENT POLICY MEMORANDA MANUAL

Date: 5/30/95, Number: 1-11  
Approved: Supersedes: 1-11 (5/6/91)

#### PUBLIC HEARINGS FOR THE LOCATION AND DESIGN OF HIGHWAY CONSTRUCTION PROJECTS

**Introduction** A public hearing is a well-publicized opportunity for VDOT to present its studies and policies while receiving and documenting comments from affected citizens.

**Policy** In the development of any project, VDOT shall consider a wide range of factors, and shall allow full opportunity for consideration and participation by public and private interests before final approval of highway locations and designs.

**Rules** These are the rules, which apply to the implementation of the policy:

A notice to hold a public hearing or the willingness to hold a public hearing must be stated in public advertisement

- All public hearings should be scheduled approximately sixty (60) days in advance. Advertisements must appear 30 days prior to the hearing.
- The public involvement process must be held in accordance with applicable Federal and State statutes, including 23 USC 128, 23 CFR Part 771, and 40 CFR Parts 1500-1508, & the VDOT Public Involvement Policy and Procedure Manual.
- The publication of a willingness to hold a location public hearing, design public hearing, or a combined public hearing will satisfy any public hearing requirements.

**PUBLIC HEARINGS, continued**

**Types of  
Projects and  
Hearings**

Below is a listing of projects and the type of public hearing usually held.

<b>If the system is</b>	<b>and it concerns...</b>	<b>then use this process</b>
Interstate	bypasses of cities or towns	a location public hearing followed by a design public hearing.
Primary	Projects involving extensive route relocation	A location public hearing followed by a design public hearing.
Interstate	projects having substantially different social, economic or environmental effect	a location public hearing followed by a design public hearing.
Interstate	projects in rural areas where there is not a unusual amount of public interest	a combined location and design public hearing.
Interstate	projects in urban or suburban areas or areas of an unusual amount of public interest example: development of an all multi-lane highway requiring additional right of way	a combined location and design public hearing.
Interstate	all other projects	a combined location and design public hearing.

**PUBLIC HEARINGS, continued**

**Types of Projects and Hearings**

Below is a listing of projects and the type of public hearing usually held.

<b>If the system is</b>	<b>and it concerns...</b>	<b>then use this process</b>
Primary	bypasses of cities or towns	a location public hearing followed by a design public hearing.
Primary	projects involving extensive route relocation	a location public hearing followed by a design public hearing.
Primary	projects having substantially different social, economic or environmental effect	a location public hearing followed by a design public hearing.
Primary	projects in rural areas where there is not a unusual amount of public interest	a combined location and design public hearing.
Primary	projects in urban or suburban areas or areas of an unusual amount of public interest example: development of an all multi-lane highway requiring additional right of way	a combined location and design public hearing.
Primary	all other projects	a combined location and design public hearing.

<b>If the system is</b>	<b>and it concerns...</b>	<b>then use this process</b>
Urban	projects involving extensive route relocation	a location public hearing followed by a design public hearing.
Urban	projects having substantially different social, economic or environmental effect	a location public hearing followed by a design public hearing.
Urban	all other projects	a combined location and design public hearing.
Secondary	projects in urban or suburban areas or areas of an unusual amount of public interest	a location public hearing followed by a design public hearing or a combined location and design public hearing.
Secondary	all other projects	a combined location and design public hearing.

## **PUBLIC HEARINGS, continued**

### **Exclusions from the Public Hearing Process**

Hearing processes are not required for those projects that are solely for such improvements as:

- \* resurfacing;
- \* widening, existing lanes;
- \* adding auxiliary lanes;
- \* replacing existing grade separation structures;
- \* installing, traffic control devices;
- \* Hazard Elimination Safety (HES) funded projects; and
- \* State Traffic Operations Safety Improvement Projects (STOSIP).

Public hearings on certain projects may be waived, unless the project

- \* requires the acquisition of additional right-of-way;
- \* would have an adverse effect upon abutting real property; or
- \* would change the layout or function of connecting roads or streets of the facility being improved.

The District Administrator must recommend the waiver, and it must be approved by the State Location and Design Engineer.

Concurrence by the FHWA must be secured on projects receiving federal participation for any phase, except emergency situations.

### **References:**

- Code of Virginia 33. 1 - 18.
- National Environmental Policy Act, Part 1506-6.
- 23 USC 128, 23 CFR Part 771, and 40 CFR Parts 1500-150
- VDOT Public Involvement Policy Manual.

**APPENDIX H-1**  
**HOW TO REQUEST A PUBLIC MEETING**

To request a public meeting be advertised the following form should be completed with the requested information. This form, a 8 ½" X 11" project location map and a complete set of project plans should be forwarded to the Public Involvement Section (this is a minimum).

VIRGINIA DEPARTMENT OF TRANSPORTATION  
LOCATION AND DESIGN DIVISION  
OFFICE OF PUBLIC INVOLVEMENT  
PUBLIC HEARING/MEETING REQUEST FORM

DATE OF REQUEST: \_\_\_\_/\_\_\_\_/\_\_\_\_

FROM: \_\_\_\_\_ PHONE: \_\_\_\_\_

ROUTE: \_\_\_\_\_ PROJECT #: \_\_\_\_\_

FROM: \_\_\_\_\_

TO: \_\_\_\_\_

LENGTH: \_\_\_\_\_ COUNTY/CITY: \_\_\_\_\_

PPMS #: \_\_\_\_\_ FEDERAL PROJECT #: \_\_\_\_\_

DISTRICT: \_\_\_\_\_ RESIDENCY: \_\_\_\_\_

CHARGE CODE: \_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_-\_\_\_\_, Act. Code\_\_\_\_ IMPERIAL METRIC

TYPE: LOCATION \_\_\_\_\_ DESIGN \_\_\_\_\_ COMBINED LOC & DES \_\_\_\_\_

WILLINGNESS POSTING \_\_\_\_\_ CITIZEN INFORMATION \_\_\_\_\_

DAY AND DATE SCHEDULED: \_\_\_\_\_, \_\_\_\_/\_\_\_\_/\_\_\_\_

STYLE: OPEN FORUM: FROM \_\_\_\_:\_\_\_\_ p.m. TO \_\_\_\_:\_\_\_\_ p.m.

FORMAL: PRE-HEARING PLAN REVIEW AT \_\_\_\_:\_\_\_\_ p.m.

HEARING AT \_\_\_\_:\_\_\_\_ p.m.

LOCATION: \_\_\_\_\_  
(Letter of confirmation of date, time and place required)

ENVIRONMENTAL DOCUMENT REQUIRED? YES \_\_\_\_ NO \_\_\_\_

IF YES, WHAT TYPE? \_\_\_\_\_

DATE OF APPROVAL: \_\_\_\_/\_\_\_\_/\_\_\_\_ (Submit approved document to PI)  
(PI must have title sheet, public hearing plans, letter size map)

\*\*\*\*\* DATA REQUESTED FROM PUBLIC INVOLVEMENT SECTION \*\*\*\*\*  
(Items you would like PI to prepare)

+++++

ITEMS FOR BROCHURE/HANDOUT:

COVER: YES \_\_\_ NO \_\_\_

LOCATION MAP: YES \_\_\_ NO \_\_\_

TYPICAL SECTION: YES \_\_\_ NO \_\_\_  
(If yes, copy of typical section plan sheet required)

COMMENT SHEET: YES \_\_\_ NO \_\_\_  
(If yes, provide questions)

PRINTING: YES \_\_\_ NO \_\_\_

IF YES, NUMBER OF COPIES: \_\_\_\_\_

+++++

OTHER SUPPORT ITEMS:

VIDEO: YES \_\_\_ NO \_\_\_  
(If yes, photos/material and script shall be submitted)

RENDERINGS: YES \_\_\_ NO \_\_\_  
(If yes, call coordinator for information that's required)

MOSAIC: YES \_\_\_ NO \_\_\_  
(If yes, are photos available)

MASS MAILING LABELS \_\_\_\_\_ MASS MAIL POST CARDS \_\_\_\_\_  
(If yes, attach a map showing area to be covered)

~~REFRESHMENTS FOR HEARING \_\_\_\_\_ NUMBER TO PREPARE FOR \_\_\_\_\_  
(If yes, would you like this office to make the arrangements)~~

+++++

NOTE: (Revised 6/98)  
ALL INFORMATION SHALL BE SUBMITTED TO THE OFFICE OF PUBLIC  
INVOLVEMENT NO LESS THAN 60 DAYS PRIOR TO HEARING DATE.

**APPENDIX H-2**  
**HOW TO PREPARE A PROJECT BROCHURE**

The following information contains a sample of all standard sections to be included in each project booklet. These sections are representative and do not have to be used word for word, but can be if it fits your needs. Each project is unique, therefore, your project may require some additional information.

**INFORMATION MEETING BOOKLET-**

Provide a description of the information you wish to gather comment for.

**LOCATION PUBLIC HEARING BOOKLET –**

Provide a description of each Alternative presented and a comparison of the pros and cons of each including but not limited to environmental, right of way, construction, permits and cost.

**DESIGN PUBLIC HEARING BOOKLET-**

Provide a description of the proposed major design features and their impact on the surrounding area.

**LOCATION AND DESIGN PUBLIC HEARING BOOKLET –**

Provide a description of the location changes and the major design features and their impact on the surrounding area.

**INTRODUCTION**

The purpose of this Combined Location and Design Public Hearing is to provide a public opportunity for any person, acting on his/her own behalf or representing a group or governing body, the opportunity to offer comments or submit written material or other displays concerning the proposed improvements to Route 000 (Project Information).

VDOT ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964. For further information, contact the Virginia Department of Transportation, Office of Civil located at ?? in ??, Virginia ? or telephone 804???-???? or TTY 800-307-4630.

All comments received both oral and written, will be included in a transcript for review by Department personnel, citizens and all other interested parties. Questions and concerns raised as a result of this meeting will be addressed by the Project Designer prior to consideration of the project by the Commonwealth Transportation Board.

**REASON FOR METRIC PLANS**

The plans have been developed in metric units for all projects such as the ones being discussed at this meeting. In order to aid in the understanding of our proposed project, all information provided at this meeting will be given in both metric and imperial units. A disposable scale is available to measure dimensions in feet from our metric plans.

**DESIGN CRITERIA**

The purpose of this project is to eliminate substandard horizontal alignment curves and poor stopping sight distances at vertical crests along segments of the road. This project will also provide a wider shoulder for addition recovery space for errant vehicles. These improvements will dramatically increase safety along Duncan Road.

**STATEMENT FOR STORMWATER MANAGEMENT**

During construction, all reasonable efforts will be made to protect the environment with respect to dust control, siltation and erosion. Stormwater management facilities will be incorporated into this project. Construction will conform to the nationwide best management practices, VDOT specification and special provisions and the Virginia Department of Soil and Water Conservation regulations.

"or"

Potential impacts to flood plains and wetlands were evaluated. To minimize potential impacts on water quality and adjacent wetlands and comply with regulations five stormwater management ponds are proposed. The ponds have been located where necessary to reduce increases in run-off and pollutants leaving the roadway while minimizing impacts to existing residential neighborhoods.

Basin #	Location (station)	Property owner	Fenced (only is some areas)	Comment
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**FLOOD PLAIN IMPACTS**

This project is not expected to generate any negative flood plain impacts.

"or"

The flood plain impacts that will result from this project will be addressed at the public hearing.

**TRAFFIC DATA**

The average daily volume of traffic on Route 000 is 000 vehicles per day (based on 1998 data). This volume is expected to increase to 000 vehicles per day by the design year 2010.

**RIGHT OF WAY**

The improvements to Duncan Road (Route 670) will require minimum additional right of way. No families, businesses or non-profit organizations will be relocated as a result of this project.

**(CHECK IIM 203 FOR CORRECT SECTION)**

Easements are required for construction of slopes and maintenance of drainage facilities. As we further coordinate and finalize project development, preliminary utility easement locations shown on the public hearing plans may change. The property owner will be informed of the exact location of the easements during the right of way acquisition process and prior to construction.

**ENVIRONMENTAL REVIEW (IF A FEDERAL PROJECT)**

A Draft Environmental Assessment was submitted to and approved by the Federal Highway Administration on May 5, 1995. All pertinent environmental issues relative to the National Environmental Policy Act of 1969 were discussed. A Memorandum of Agreement addressing impacts to the ----- was submitted to and approved by the Department, the Federal Highway Administration, the Department of Historic Resources, and Advisory Council. The Council signed this under the conditions of the Agreement. All pertinent comments made at the formal public hearing will be addressed and incorporated where prudent in the Final Environmental Assessment.



**ENVIRONMENTAL/NOISE WALL STATEMENT**

A review of the project corridor was made to determine the social, economic, and environmental impact of the proposed project upon the community and surrounding area. It has been determined that no significant impact will result from the construction of this project. On "July 7, 1994 a "Draft" Environmental Impact Statement was approved by the Federal Highway Administration and is available for your review here tonight or at the Virginia Department of Transportation offices located at (district and residency office.) A study of the noise impacts to the adjacent properties has been conducted. Thirty-seven locations were identified for evaluation. The results of the study is included below for your review:

LOCATION	LENGTH	HEIGHT	COST
----------	--------	--------	------

Those receptors that are noted as not meeting the criteria for construction may be constructed with third party funding and the consent of the local governing body. The funding decisions and agreement of the local governing body for the construction of noise abatement measures will be included as a part of the public hearing transcript and therefore must be submitted before the project is presented to the Commonwealth Transportation Board for consideration.

**MAJOR INVESTMENT STUDY**

As a part of this public involvement process for the Major Metropolitan Transportation Investment we are seeking your comments on alternatives and will provide an opportunity for you to receive information and express your views. The Major Investment Study (MIS) and Congestion Management Study (CMS) elements will also be presented for your consideration.

**ANTICIPATED IMPACTS**

During construction, every reasonable effort will be made to protect the environment with respect to dust control and erosion control. Access to all properties will be maintained during construction.

**ESTIMATED COST**

The 1995 project cost for preliminary engineering is \$500,000, for utility relocation is 500,000, for right of way is \$ 500,000 and \$ 700,000 for construction the total is estimated to be \$1.2 million.

**REMAINING ACTION**

The following tentative schedule has been proposed:

- Review and evaluation of information received at the Location and Design Public Hearing Mid-1995;
- Consideration by the Commonwealth Transportation Board Mid-1995;
- Begin acquisition of Right of Way Late-1995;
- Advertise for construction Early-1996.

**ADDITIONAL INFORMATION**

Project information, including comments made at the Public Hearing, will be available for review at the following Virginia Department Of Transportation's offices:

Richmond District Office  
 2400 Pine Forest Drive  
 Colonial Heights, Virginia  
 Telephone ( )  
 TTY (800) 307-4630

Petersburg Residency Office  
 4608 Boydton Plank Road  
 Petersburg, Virginia  
 Telephone ( )

**WRITTEN COMMENTS**

In order to be made a part of the official transcript of the public hearing, written comments or questions should be submitted within 10 days after the public hearing to:

Richmond District Administrator  
Virginia Department of Transportation  
P. O. Box 3402  
Colonial Heights, Virginia 23834

Information regarding right of way may be obtained from:

District Right of Way and Utilities Manager  
Virginia Department of Transportation  
2400 Pine Forest Drive  
P. O. Box 3402  
Colonial Heights, Virginia 23834  
Telephone ( ) 000-0000

The booklet should also include a typical section graphic and a project location map.

### **APPENDIX H-3**

#### **HOW TO REQUEST A MASS MAILING of the PROJECT AREA**

**The Resident Engineer**, who is closest to those effected by the project design, can request it; the Resident Engineer will know if there is an active local interest in the project. So in addition to posting signs on both ends of the project, the Resident Engineer can request a mass mailing of the zip code area be included as a part of the public hearing process.

**The Project Designer**, who knows the existing and proposed traffic patterns and the number of adjacent property owners that is effected by the project. On normal projects the Designer sends out copies of the notice that's put in the newspaper and the project location map to each person located on the project. If the Designer feels that the whole area around the project will be effected by the changes in the roadway or the construction of the project, they can decide it would be in the best interest of the public to notify everyone in that zip code area.

**The Construction Engineer**, who is aware of the politically sensitive projects, can also request that a mass mailing of the zip code area be done.

Each District has its own process for approval to request a mass mailing be done so you will need to discuss this with your management.

**The Public Involvement Representative** can suggest to the District that a mass mailing be done on a project based on area population, results of prior hearings, and requests received from the public, or at the request of Central Office management. If this is the case, we will coordinate this with the District Location & Design Engineer.

#### **HOW TO REQUEST A MASS MAILING BE DONE...**

**The Project Designer** can request as a part of the Public Hearing Request form to schedule a public meeting. The Project Designer will use this form to indicate other public hearing information they would like the Public Involvement Section to provide such as brochures, videos, typical sections, mosaics, rendering etc..

When a mass mailing is requested, the Project Designer will provide a map indicating the area (radius around the project or a zip code number) they would like to have notified and if they would like the Public Involvement Section to prepare a post card to be used or if the Designer will provide one.

NOTE: If a prepaid permit number is not provided, postage will have to be applied in the District OR the return address must be Central Office.



## APPENDIX H-4

**HOW TO PREPARE A VIDEO** The following is a sample of the video script (to be provide 60 days before meeting) and how to insert project photos. The project designer may take the photos or may request the Public Involvement Section to provide project photos.

PUBLIC MEETING VIDEO SCRIPT  
ROUTE  
COUNTY

VIDEO	AUDIO
VDOT SLATE CG file: OPENER H (for Hearing), or OPENER M (for Meeting). Add specifics.	Music up
Hold VDOT SLATE and specifics	WELCOME AND THANK YOU FOR PARTICIPATING IN A VIRGINIA DEPARTMENT OF TRANSPORTATION [LOCATION, DESIGN, LOCATION AND DESIGN] PUBLIC HEARING [CITIZEN PARTICIPATION MEETING]. THIS [HEARING] [MEETING] IS BEING HELD TO CONSIDER PROPOSED IMPROVEMENTS TO _____ IN _____ (COUNTY, CITY).
Reel 0001: Open Forum CG file: FORUM. CG up at "in an open..."	THIS IS AN OPPORTUNITY TO EXPRESS YOUR COMMENTS AND RECOMMENDATIONS, IN AN OPEN FORUM,
Reel 0002: Open Forum 2 CG file: FORUM.	AND TO HAVE THEM BECOME A PART OF THE OFFICIAL RECORD OF THIS [HEARING] [MEETING].
Reel 0001: VDOT Rep A & VDOT Rep B  CG file: VDOTREP.	VIRGINIA DEPARTMENT OF TRANSPORTATION REPRESENTATIVES ARE AVAILABLE IN THE DISPLAY AREA TO ANSWER ANY QUESTIONS YOU MAY HAVE CONCERNING THE PROJECT.
Reel 0002: Comments CG file: COMMENT. CG up at "provide us..."	ONCE YOUR QUESTIONS HAVE BEEN ADDRESSED, PROVIDE US WITH YOUR COMMENTS WHILE YOU ARE HERE TODAY.
Reel 0001: Writing Comments	SHOULD YOU DECIDE NOT TO PROVIDE YOUR COMMENTS AT THIS TIME,
Reel 0001: Fold & Click CG file: SUBMIT (for standard ten day period), or SUBMITD (for a specific date)	COMMENT SHEETS MUST BE COMPLETED AND SUBMITTED WITHIN TEN DAYS OF THIS [HEARING] [MEETING] TO BECOME A PART OF THE OFFICIAL RECORD OF THIS [HEARING] [MEETING].
Reel 0003: Comment Box CG file: REVIEW.	ALL COMMENTS WILL BE THOROUGHLY REVIEWED BY DEPARTMENT PERSONNEL BEFORE THE PROJECT IS SUBMITTED TO THE COMMONWEALTH TRANSPORTATION BOARD FOR CONSIDERATION.
Reel 0002: Key Element	YOUR PARTICIPATION IS A KEY ELEMENT OF THIS [HEARING] [MEETING].

CG file: YOURPART.	Music Out
Reel 0004: Stream CU	DURING ANY CONSTRUCTION OPERATION VDOT IS COMMITTED TO SAFEGUARDING THE ENVIRONMENT.
Reel 0005: Const Shot	GOOD CONSTRUCTION METHODS AND PRACTICES WILL BE FOLLOWED,
Reel 0006: Silt Fence	AND CAREFUL ATTENTION WILL BE GIVEN TO EROSION AND SEDIMENT CONTROL.
Reel 0007: CAD CU CG file: METRIC1.	THIS PROJECT IS BEING DEVELOPED IN METRIC UNITS.
Reel 0001: Metric Hearing	FOR YOUR CONVENIENCE, THE INFORMATION AT THIS HEARING IS PRESENTED IN BOTH METRIC AND IMPERIAL UNITS.
Reel 0008: Conv Scale CG file: METRIC2.	TO HELP YOU UNDERSTAND THE PLANS, A SCALE IS AVAILABLE TO CONVERT METERS TO FEET.
Location Map. Use arrows to denote termini as spoken	THE PROPOSED PROJECT BEGINS ____ AND ENDS ____, A DISTANCE OF ____.
Insert specific project information here	Insert specific project information here
Reel 0009: Traffic Count CG file: TRAFNOW, add count	CURRENTLY, THE AVERAGE TRAFFIC VOLUME ON ____ IS ABOUT _ VEHICLES PER DAY.
RB5FRZ: Trf Count CG file: TRAFPROJ, add year and count.	THE AVERAGE TRAFFIC VOLUME IS PROJECTED TO BE _ VEHICLES PER DAY BY THE YEAR 20__.
RB5FRZ: Dollar CG file: ESTCOST, add numbers.	THE TOTAL ESTIMATED PROJECT COST IS __ DOLLARS.
Reel 0010: ROW CG file: ROWDIS, add numbers.	THE RIGHT OF WAY REQUIRED FOR THIS PROJECT WILL DISPLACE ____ RESIDENCES, ____ BUSINESS(ES) AND ____ NON-PROFIT ORGANIZATIONS.
Reel 0010: ROW CG file: ROWUTILA: "Preliminary utility easement locations shown on the public hearing plans may change."  OR OR OR OR OR OR  CG file: ROWUTILB: "Additional easements for utility relocations may be required beyond the proposed right-of-way shown on the public hearing plans."	AS WE CONTINUE TO COORDINATE AND FINALIZE PROJECT DEVELOPMENT, [PRELIMINARY UTILITY EASEMENT LOCATIONS SHOWN ON THE PUBLIC HEARING PLANS MAY CHANGE] [ADDITIONAL EASEMENTS FOR UTILITY RELOCATIONS MAY BE REQUIRED BEYOND THE PROPOSED RIGHT OF WAY SHOWN ON THE PUBLIC HEARING PLANS.] THE PROPERTY OWNER WILL BE INFORMED OF THE EXACT LOCATION OF THE EASEMENTS DURING THE RIGHT OF WAY ACQUISITION PROCESS AND PRIOR TO CONSTRUCTION.
RB5FRZ: Actions	FOLLOWING THE REVIEW AND EVALUATION

CG file: REVIEW.	OF THE COMMENTS FROM TODAY'S MEETING, IT IS ANTICIPATED THAT
RB5FRZ: Actions CG file: OTHER.	Insert here any actions before CTB approval, such as locality approval or a public hearing.
RB5FRZ: Actions CG file: TOCTB, add date.	THE PROJECT WILL BE PRESENTED TO THE VIRGINIA COMMONWEALTH TRANSPORTATION BOARD FOR CONSIDERATION IN _____.
RB5FRZ: Actions CG file: ROWACQ, add date.	FOLLOWING BOARD APPROVAL, RIGHT OF WAY ACQUISITION COULD BEGIN IN _____.
RB5FRZ: Actions CG file: ADVDATE, add date.	ADVERTISEMENT FOR CONSTRUCTION IS EXPECTED IN _____.  Music Up
Reel 0002: Dept Rep CG: VDOTREP.	DEPARTMENT REPRESENTATIVES ARE AVAILABLE IN THE DISPLAY AREA TO ANSWER ANY QUESTIONS YOU MAY HAVE
Reel 0001: ROW Acq	CONCERNING THE PROJECT, RIGHT OF WAY ACQUISITION AND RELOCATION ASSISTANCE.
VDOT SLATE CG: OPENER H or OPENER M. Add specifics.	WE, AT THE VIRGINIA DEPARTMENT OF TRANSPORTATION, THANK YOU FOR PARTICIPATING IN THIS VERY IMPORTANT DECISION MAKING PROCESS.
FADE TO BLACK FADE FROM BLACK TO CG: CREDIT file	Music Out.

This information should be tailored to represent the issues of your individual project. The information provided is only a guide. This script will result in a video of about 5 minutes.

## **APPENDIX H-5 HOW TO REQUEST A PROJECT RENDERING**

**The Project Designer** can request a rendering be produced as a part of the Public Hearing Request form to schedule a public meeting. The Project Designer will use this form to indicated other public hearing information they would like the Public Involvement Section to provide brochures, videos, typical sections, mosaics, mass mailings etc.. **Please indicate on the form the number of renderings required and the date completed photos are needed.**

### **DATA NEEDED – photographic**

- Plan sheet indicating the site for the rendering
- Topographic map of the area with site marked on map
- Project location map

### **DATA NEEDED – project design**

- Plans, profiles and typical sections
- Electronic files – Microstation (DGN) or AutoCAD – (DWG)
  - Contour data, topographical data (3D is ideal) (2D is okay)
  - Signaling, signage, pavement delineation/stripping plans
  - Landscaping plans if applicable and available
- Hard copy (full set of plans at ½ typical sheet size)
- If electronic files do not exist, please send full set of plans at full size

PROJECT DESIGN FILES may be provided in any of the following formats –  
Floppy disk 2.0 MEG  
Iomega ZIP disk – 100MEG, PC or Macintosh  
Iomega Jaz disk- 1 GIG (Mac only)

**APPENDIX H-6  
HOW TO PREPARE A TRANSCRIPT FOR SUBMISSION  
and an example of the process**

January 2 - Public Hearing held;

January 2 - Public comments to be returned to District Location and Design Engineer for urban, primary or interstate projects and to the Resident Engineer for secondary projects;

January 12 – Close of comment period for written comments and other submissions (10 day comment period is 10 calendar days NOT business days);

January 26 - Appointed person (District Location and Design Engineer) compiles transcripts, reviews comments and makes a recommendation to District Construction Engineer;

**INFORMATION to be included in the TRANSCRIPT**

Project Transcripts submitted for presentation to the Board should include the following information in this format.

COVER SHEET – first sheet

INDEX OF SHEETS – second sheet

Location and Design Public Hearing Transcript
       Route 000 Project 0000-000-000... County Date of Hearing Location of Hearing Time of Hearing

Index of Sheets	
Sign-In Sheet	Page 3
Public Hearing Brochure	4-7
Oral Comments	8-10
Written Comments	11-15
2	

Submit the original of the information, the District recommendation letter, and a memorandum indicating the electronic copy (.pdf file) has been posted on the Cost Estimating System by the Project Designer.

January 29 – Copies of transcript and other information sent to State Location and Design Engineer (Attention: Public Involvement Section) with the recommendation of District Construction Engineer.



January 31 - Public Involvement Section will distribute the transcript to appropriate reviewers for recommendation:

Assistant State Location and Design Engineer  
State Programming Division Administrator (if secondary)  
State Local Assistance Director (if urban)  
State Transportation Planning Engineer (if bike lanes included)  
State Environmental Engineer (if federal project)  
State Structures and Bridge Engineer (if bridge included)  
FHWA (if federal project)

February 12 - Recommendations made by appropriate reviewers for consideration by State Location and Design Engineer for inclusion in recommendation to the Chief Engineer for presentation to Commonwealth Transportation Board for approval of the location or location and major design features or presentation of recommendation to the Chief Engineer for Program Development for approval of the major design features.

February 26 – Public Involvement Section provides public hearing package to State Location and Design Engineer for review;

March 3 – Public Involvement Section provides package to Chief Engineer for Program Development for signature or presentation to the Commonwealth Transportation Board for approval;

March 19 – Commonwealth Transportation Board Meeting for project review (the CTB meets the third Thursday of each month).

March 23 – Notification of involved personnel of action taken on project.

March 27 – Notification of persons who participated in the public hearing process of the action taken on the project.

## H-7

### FREQUENTLY USED TELEPHONE NUMBERS

<p><b>CENTRAL OFFICE –</b> Assistant State Location and Design Engineer for: Fredericksburg, Culpeper, NOVA - Calvin Boles (804) 786-2501 Bristol, Salem, Staunton - Dewey Litton (804) 786-1873 Lynchburg, Hampton Roads, Staunton - Sam Hayes (804) 786-2545</p>
<p><b>BRISTOL DISTRICT-</b> L&amp;D District Coordinator – Dennis Harris L&amp;D CO Coordinator – Sherry Munford Public Affairs Coordinator – Brenda Waters</p>
<p><b>CULPEPER DISTRICT-</b> L&amp;D District Coordinator – Karen Kilby L&amp;D CO Coordinator – Vickie McCrary Public Affairs Coordinator – Vacant</p>
<p><b>FREDERICKSBURG DISTRICT-</b> L&amp;D District Coordinator – Harry Lee Public Hearing Coordinator – JoAlma Hall L&amp;D CO Coordinator – Vickie McCrary Public Affairs Coordinator – Mark Zelazy</p>
<p><b>LYNCHBURG DISTRICT-</b> L&amp;D District Coordinator – Ron Chwojdak L&amp;D Coordinator – Thom Rogers Public Affairs Coordinator – Paula Jones</p>

<b>NORTHERN VIRGINIA DISTRICT –</b>		
L&D District Coordinator – William Cuttler		(703) 383-2180
Public Hearing Coordinator Fairfax – Mike Estes		
Public Hearing Coordinator Manassas – Maria Sinner		
Public Hearing Coordinator Leesburg – Sarah McGuire		
L&D CO Coordinator – Vickie McCrary		
Public Affairs Coordinator – Joan Morris		(703) 383-2465
<b>RICHMOND DISTRICT –</b>		
L&D District Coordinator – Rick Worssam		(804) 524-6145
L&D CO Coordinator – Thom Rogers		
Public Affairs Coordinator – Jeff Caldwell		(804) 525-6179
<b>SALEM DISTRICT –</b>		
L&D District Coordinator – Rob Cary		(540) 387-5318
L&D CO Coordinator – Sherry Munford		
Public Affairs Coordinator – Laura Bullock		(540) 387-5493
<b>STAUNTON DISTRICT –</b>		
L&D District Coordinator – Terry Jackson		(540) 332-9159
L&D Coordinator – Sherry Munford		
Public Affairs Coordinator – Sandy Myers		(540) 332-9201
<b>HAMPTON ROADS DISTRICT –</b>		
L&D District Coordinator – Emaual Darko		(757) 925-2556
Public Hearing Coordinator – Bob Scott		(757) 925-2582
L&D Coordinator – Thom Rogers		
Public Affairs Coordinator – Vacant		(757) 925-2584