

National Environmental Policy Act and Clean Water Act (Section 404) Merged Process for Highway Projects in Virginia

This document is intended to summarize the merged process Memorandum of Understanding (MOU) for current and prospective consultants. While the MOU contains details regarding interagency coordination, this document provides a summary of the key milestones intended to convey the level of effort and schedule elements that will guide future work.

The merged process is defined in an MOU between Virginia Department of Transportation (VDOT), Federal Highway Administration (FHWA) Virginia Division, the US Army Corps of Engineers (USACE), the Environmental Protection Agency (EPA), and the US Fish and Wildlife Service (USFWS). The merged process provides an efficient review of proposed highway projects by encouraging early communication among agencies to facilitate the environmental review process. The merged process is intended to result in the development of documentation that complies with the National Environmental Policy Act (NEPA) and provides sufficient information to support FHWA approval and other Federal regulatory decisions, specifically decisions made by USACE under Section 404 of the Clean Water Act.

The merged process is implemented through five concurrence points throughout the development of multi-alternative Environmental Assessments (EA) and all Environmental Impact Statements (EIS). Monthly meetings are held to coordinate, present, and seek concurrence on these points, which are also informed by public comment. VDOT and FHWA will seek concurrence from Concurring Agencies (Cooperating Agencies that have confirmed concurring status) and invite input from all agencies for each of these concurrence points.*

Concurrence Points:

1. *Scoping and environmental analysis methodologies*

Following study initiation activities, VDOT, as part of the scoping process, will solicit input on the existing conditions of the study area and the potential impacts to environmental resources. The level of detail and methodology for conducting the assessment of each individual resource category will be discussed.

2. *Purpose and need*

All agencies and the general public will have the opportunity for involvement in defining the project's Purpose and Need. VDOT will provide supporting technical information to establish the transportation issues being addressed and solicit input on this information. Input received will be documented in a Purpose and Need statement and concurrence will be sought.

* The merged process has no impact on consultant scope and fees; however, the timelines on which deliverables are completed may be affected by this process.

3. *Alternatives development*

VDOT, in coordination with FHWA, will develop criteria for the consideration of alternatives including conceptual and/or preliminary alternative concepts followed by identification of a reasonable range of alternatives to be evaluated in the NEPA document. VDOT will seek input on the criteria, alternative concepts, and range of alternatives from the agencies. VDOT and FHWA will seek concurrence on the range of alternatives considered, and those to be carried forward for evaluation in the NEPA document.

4. *Identification of preferred alternative and preliminary least environmentally damaging practicable alternative (LEDPA)*

Based on the analysis in the draft NEPA document and the comments received during its review, VDOT and FHWA will identify a recommended preferred alternative. This recommendation will be documented and shared with the agencies, and concurrence will be requested. After receiving concurrence, the recommendation is presented to the Commonwealth Transportation Board, which is authorized to make location decisions in Virginia.

5. *Conceptual mitigation for project impacts*

Following the identification and concurrence on the preferred alternative, VDOT and FHWA will collaborate further with the Concurring Agencies on specific conceptual mitigation needs to be documented in the final NEPA document. VDOT will give state resource and regulatory agencies (as Participating Agencies) the opportunity to provide comments on the mitigation goals and strategies, attend mitigation site field reviews, and provide input on the conceptual mitigation plan.

Recent studies completed under the merged process (documents publicly available online):

- **Skiffes Creek Connector Study EA**
- **Bowers Hill Interchange Improvements Study EA**