



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219 2000

David S. Ekern, P.E.  
COMMISSIONER  
May 22, 2009

Mr. Edward Sundra  
Federal Highway Administration  
Post Office Box 10249  
Richmond, Virginia 23240-0249

Re: No-Build Analysis Agreement for Air and Noise Studies

Dear Mr. Sundra:

In an effort to further streamline the completion of project-level air quality and noise studies required by the National Environmental Policy Act (NEPA), the Virginia Department of Transportation (VDOT) would like to enter into an agreement with the Federal Highway Administration (FHWA) to minimize the need for analysis of the no-build alternative as outlined below. This agreement is based upon extensive experience completing air and noise studies for transportation projects within the Commonwealth, and in keeping with federal guidelines, specifically excludes certain types of projects from no-build analysis requirements when little or no additional value would be provided to the public or aid in decision-making. The Agreement is executed upon the signature of both parties on the attached signature page (see Attachment 1).

Therefore, in keeping with existing federal NEPA regulations and guidance, and for transportation projects within the Commonwealth of Virginia that require a carbon monoxide (CO) air study under the current Project-Level CO Air Quality Studies Agreement in effect between VDOT and FHWA, the following will govern the need for analysis of the interim and design year no-build alternatives in CO air studies:

- A. Any project that qualifies for a Categorical Exclusion (CE) will be exempt from analysis of the no-build alternatives, although VDOT may choose to analyze the no-build alternatives if they determine it appropriate;
- B. Any project that qualifies for an Environmental Assessment (EA) will generally be exempt from analysis of the no-build alternatives, although VDOT may choose to analyze the no-build alternatives if they determine it appropriate;
- C. Any project that qualifies for an Environmental Impact Statement (EIS) will require analysis of the no-build alternative;
- D. Notwithstanding (A), (B), and (C) above, transportation conformity requirements may apply to transportation projects that lie within a CO nonattainment/maintenance area,

although for conformity purposes, a no-build analysis is generally not required if the project is determined to "pass" a CO hotspot analysis under the build alternative.

Additionally, the following will govern the need for analysis of the interim and design year no-build alternatives in noise abatement studies:

- A. Any project that qualifies for a CE will be exempt from analysis of the no-build alternatives unless the following conditions apply: 1) the project is classified as a Type I improvement on the interstate system; 2) and/or FHWA has determined that there is a potential for a Section 4(f) "constructive use". VDOT may choose to analyze the no-build alternatives if they determine it appropriate;
- B. Any project that qualifies for an EA will be exempt from analysis of the no-build alternatives unless the following conditions apply: 1) the project is classified as a Type I improvement on the interstate system; 2) and/or FHWA has determined that there is a potential for a Section 4(f) "constructive use". VDOT may choose to analyze the no-build alternatives if they determine it appropriate;
- C. Any project that qualifies for an EIS will require analysis of the no-build alternative.

The requirements outlined in this agreement are not intended to alter any previously granted approvals, and may be applied to air quality and noise abatement studies currently underway upon agreement by both parties.

Sincerely,



Stephen Long  
State Environmental Administrator

Attachments

1. Signature page to the Agreement

**FHWA-VDOT No-Build Analysis Agreement for Air and Noise Studies**

By signature below, we indicate our agreement with the no-build analysis requirements for air quality and noise abatement studies for projects implemented within the Commonwealth of Virginia as specified in the letter dated May 22, 2009 from the Virginia Department of Transportation to the Federal Highway Administration detailing the "No-Build Analysis Agreement for Air and Noise Studies".



Edward Sundra  
Planning and Environment Program Manager

5/22/09

Date



Stephen Long  
State Environmental Administrator

5/22/09

Date