



NEPA Assignment from FHWA to VDOT

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What is NEPA?

- **National Environmental Policy Act of 1969**
- **Requires Federal agencies to make informed decisions before they move forward with a project/action**
- **Informed decisions are based on studies documented in:**
 - **Categorical Exclusions: Projects with no significant impacts**
 - **Environmental Assessments: Projects where the significance of the impacts are not known**
 - **Environmental Impact Statements: Projects with significant impacts**

SAFETEA-LU (2005)

- **Created Two NEPA Assignment Programs**
 - **CE Assignment:**
 - Allows assignment of CE decisions
 - Available to all states
 - Not a pilot
 - Only for highway projects
 - **Full NEPA Assignment:**
 - Allows assignment of EISs and EAs
 - Available only to five states
 - Limited duration
 - Only for highway projects

MAP-21 (2012)

- **Updated SAFETEA-LU NEPA Assignment Programs**
 - **Updates to CE and Full NEPA Assignment:**
 - Not required to give up existing flexibility in project delivery methods
 - State can terminate agreement with 90 day notice
 - State can use federal funds for attorney fees

 - **Updates to Full NEPA Assignment:**
 - Permanent program
 - Open to all states
 - Can be use for transit, rail, and multimodal projects
 - Audit requirements end after fourth year

NEPA Assignment Participation Among States

- **Five original pilot states (California, Alaska, Ohio, Texas, Oklahoma) for full assignment under SAFETEA-LU**
 - **Only California accepted assignment**
 - **California had a state version of NEPA in place (VDOT does not), enhancing implementation**
- **Texas has CE assignment and is pursuing full assignment**
- **Alaska has CE assignment and is considering full assignment**
- **Utah has CE assignment and is not pursuing full assignment**

Current NEPA Process

- FHWA determines type of NEPA document (CE, EA, or EIS)
- VDOT performs supporting NEPA studies
- VDOT prepares NEPA document for FHWA consideration
- FHWA serves as lead point of contact with other federal agencies
- FHWA reviews NEPA document
- FHWA approves NEPA document:
 - CE: File is documented
 - EA: Finding of No Significant Impact (or EIS necessary)
 - EIS: Record of Decision

NEPA Assignment Process

- **VDOT performs all of those functions:**
 - **VDOT determines the most appropriate NEPA document (CE, EA, EIS)**
 - **Eliminates FHWA local and headquarters review**
 - **VDOT serves as lead point of contact with other agencies**
 - **VDOT approves NEPA document**

Benefits of NEPA Assignment

- **Reduces process time**
- **Reduces cost of conducting NEPA**

Implementation

- **Additional thoughts and considerations**

- **Notice of Proposed Rulemaking (covers MAP-21 changes; closes October 29, 2013)**
- **State legislative authority to perform NEPA**
- **Coordination with other federal agencies**
- **VDOT's role on local government NEPA work**
- **Legal assistance and support**
- **Other Federal requirements:**
 - Clean Water Act: Corps of Engineers
 - Threatened and Endangered Species Act: U.S. Fish and Wildlife Service
 - National Historic Preservation Act: Advisory Council on Historic Preservation

What's Next

- **VDOT to comment on Federal DOT's Notice of Proposed Rulemaking**
- **VDOT to pursue legislative authority**
- **Develop a program application to embrace either full NEPA assignment or CE assignment (requires clarification on the particulars of each option)**
- **Identify resources (staff, legal, etc.)**



Virginia Department of Transportation