

VDOT Approach to the FHWA Relocations Policy

Background

Through early 2023, FHWA provided VDOT (via email only) information regarding FHWA's new policy on relocations and the consideration of the appropriate level of NEPA documentation. After several informal conversations, VDOT submits formal questions regarding interpretation of FHWA's new policy, especially related to the three questions listed below (do the people being relocated object/do the relocations involve environmental justice communities/is there a history of controversial relocations in the area?). FHWA responded to VDOT's initial questions noting that questions identified in policy must be answered for each NEPA action proposed to be a CE.

Approach to Answering Policy Questions

1. Do the relocations involve environmental justice (EJ) communities?
 - a. VDOT will rely on readily available Census data, coupled with information gathered from the public involvement process, to inform the response to this question.
 - i. In completing the NEPA concurrence form, Environmental staff will include a table summarizing the low income and minority populations within the project area, consistent with VDOT's EJ IIM.
2. Is there a history of controversial relocations in the area?
 - a. Interim Approach: VDOT will add this question to scoping letters for all projects that include scoping. For the purpose of this exercise, VDOT is focused on if the people who were relocated in any of these historic projects objected to the relocation. This does not include an objection to mitigation/compensation offered by VDOT or project sponsor. For projects that do not include scoping, VDOT will provide this question in writing to District Right of Way staff, who will provide an assessment based on readily available and relevant information.
 - i. In completing the CE prior to public availability, Environmental staff will include a summary of the findings of efforts under 2(a).
 - b. Long-Term Approach: VDOT will complete a programmatic effort to identify locations where controversial relocations have taken place since the construction of the Interstate (the effort will include both Interstate and non-Interstate facilities; using the construction of the Interstate as a temporal boundary provides a consistent timeline). This effort will include scoping to obtain input from relevant stakeholders, including other state agencies and the public. Using the outcome of this programmatic effort, future projects will be assessed by whether they are within the areas identified as including controversial relocations, and whether the controversy could be resolved within the scope of the project (i.e., turn lanes can't be moved to mitigate controversial relocation - some projects may not be able to address controversy).
3. Is there substantial controversy (do the people who would be relocated object)?

- a. VDOT will assume that people who would be relocated object to that relocation. A statement to this effect must be included in the NEPA concurrence form.

Utilization of an approach other than what is described above may risk FHWA being unable to determine that a CE is appropriate for a project. Note that an affirmative response to any of the three policy questions may result in FHWA determining the project includes significant impacts.

Example language for NEPA Concurrence Form (note that this language need only be documented in the NEPA Concurrence Form; it is not required to be documented in the CE unless necessitated by the analysis):

Four relocations are anticipated to be required for this project. Based on available Census data obtained through EJScreen, and FHWA's 2011 Environmental Justice Guidance, xx% of individuals within the project area/relevant block groups are low income, and xx% of individuals within the project area/relevant block groups are minority. It is assumed that all relocatees object to the relocation. It is VDOT's recommendation that this information does not constitute significant impacts associated with this project.