

VIRGINIA DEPARTMENT OF TRANSPORTATION

# ENVIRONMENTAL DIVISION

## INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM

DIRECTED TO: CO NEPA Programs Staff District Environmental Planners District Environmental Managers District Assistant Environmental Managers Planning and Investment Managers	AUTHORITY: 23 CFR 450
GENERAL SUBJECT: National Environmental Policy Act	NUMBER: IIM-ED-711.1
SPECIFIC SUBJECT: Planning Documents and National Environmental Policy Act Approvals	DATE: 09/21/2023
	SUPERSEDES: EM-NEPA-711
APPROVED: Christopher J Swanson For Public Distribution 2023.09.21 16:09:59-04'00'	

Changes are shaded.

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### PURPOSE

The purpose of this document is to provide fiscal constraint requirements associated with National Environmental Policy Act (NEPA) approvals.

**REQUIREMENTS**

<b><i>Plan</i></b>	<b><i>Project Type</i></b>	<b><i>NEPA Approval Requirement</i></b>
<b><i>Transportation Improvement Program (TIP)</i></b>	All Projects (excluding the types of projects listed below)	Subsequent phase of project development includes planned obligations in TIP. For most projects, this will be indicated by planned obligations for the Right of Way (ROW) phase. On other projects, the subsequent phase may be <i>Preliminary Engineering</i> following a <i>Study</i> phase that includes NEPA.  Phase and "planned obligations" should be added to TIP Action will be handled as "administrative adjustment" or amendment depending upon the Metropolitan Planning Agency's (MPO) policy for adjustment/amendments (projects to be included in TIP).
	Grouped Projects	No action is required by MPO related to "planned obligations" unless adding the phase causes the project to exceed the sliding scale. <sup>1</sup> Virginia Department of Transportation (VDOT) maintains a tracking sheet for each grouping for this purpose and will notify the MPO if action is required of them.
	P3 projects (those that have been screened by the Office of Public-Private Partnerships {OPT3} and found to be viable)	Treated as "unusual instances." A description of the next phase of the project will be included in the TIP for informational purposes. VDOT will provide a letter from Commissioner committing to work with the MPO to amend the TIP and include full funding for the next phase of the project when the financial terms of the agreement between the Commonwealth and the private sector are made public.

<sup>1</sup> If an MPO has taken an action to ungroup a project and a STIP amendment has been processed for that action, the project in question will be subject to the requirements of "All Projects", not "Grouped Projects".

<p><b>Statewide Transportation Improvement Program (STIP)</b></p>	<p>All Projects (excluding the types of projects listed below)</p>	<p>Subsequent phase of project development includes planned obligations in STIP. For most projects, this will be indicated by planned obligations for the ROW phase. On other projects, the subsequent phase may be <i>Preliminary Engineering</i> following a <i>Study</i> phase that includes NEPA.</p> <p>Phase and "planned obligations" should be added to the STIP. Action will be handled as "administrative adjustment" or amendment depending upon the sliding scale and MOA guidelines.</p>
	<p>Grouped Projects</p>	<p>No action is required by VDOT related to "planned obligations" unless adding the phase causes the project to exceed the sliding scale.<sup>2</sup> VDOT maintains a tracking sheet for each grouping for this purpose.</p>
	<p>P3 projects (those that have been screened by OPT3 and found to be viable)</p>	<p>Treated as "unusual instances." A description of the next phase of the project will be included in the STIP for informational purposes. VDOT will provide a letter from Commissioner committing to include full funding for the next phase of the project in the STIP when the financial terms of the agreement between the Commonwealth and the private sector are made public.</p>

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<sup>2</sup> 2 If VDOT has taken an action to ungroup a project and a STIP amendment has been processed for that action, the project in question will be subject to the requirements of "All Projects", not "Grouped Projects".

<b>Long Range Transportation Plan (LRTP)</b>	All projects outside urbanized areas (including P3 projects)	Project is consistent with the Statewide Multimodal Long Range Transportation Plan.
	All projects within urbanized areas regardless of attainment status (excluding P3 projects)	Entire project covered by NEPA document funded for construction with reasonably available funding. <sup>3</sup>
	P3 projects in urbanized areas (those that have been screened by OPT3 and found to be viable)	Entire project covered by NEPA document funded for construction with reasonably available funding. Reasonably available funding requirement demonstrated in accordance with the <i>Federal Highway Administration (FHWA)/VDOT Framework for Demonstrating Financial Constraint of Public-Private Partnership Projects</i> .

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<sup>3</sup> In nonattainment/maintenance areas, this requirement is based on the Clean Air Act and the transportation conformity requirements as well as the FHWA 2/9/11 (updated 4/7/2011) Supplement to January 28, 2008 "Transportation Planning Requirements and Their Relationship to NEPA Process Completion". In attainment areas, this requirement is based on the 2/9/11 Guidance.