

VIRGINIA DEPARTMENT OF TRANSPORTATION

# ENVIRONMENTAL DIVISION

## INSTRUCTIONAL AND INFORMATIONAL MEMORANDUM

DIRECTED TO: Central Office NEPA Staff District Environmental Managers District Environmental Planners	AUTHORITY: 23 CFR 771.111(h)
GENERAL SUBJECT: NEPA Document Public Availability	NUMBER: IIM-ED-700.3
SPECIFIC SUBJECT: Document Availability Requirements for Public Hearings (PCE & CE)	DATE: 11/1/2022
	SUPERSEDES: EM-NEPA-700.2
APPROVED: Christopher J Swanson For Public Distribution 2022.11.02 16:43:08-04'00'	

Changes are shaded.

### CURRENT REVISIONS

This I&IM has been updated to document that VDOT, with FHWA's concurrence, may satisfy the coordination requirements for Section 4(f), specifically 23 CFR 774.5(b)(2)(i) for parks, recreation areas, and wildlife and waterfowl refuges, by providing for public notice and an opportunity for public review and comment on a Section 4(f) *de minimis* impact concurrently with Notices of a Willingness to Host a Public Hearing.

### PURPOSE

The purpose of this I&IM is to document that VDOT is responsible for the following:

- Identify when a public notice, public hearing, or posting of willingness to hold a public hearing are required for a Categorical Exclusion (CE) or a Programmatic Categorical Exclusion (PCE); and
- Provide public notice and opportunity for public review and comment on 4(f) *de minimis* impact. This requirement may be satisfied concurrently with Notices of Willingness to Host a Public Meeting.

This I&IM also documents the two step process for CE Approval by FHWA for the CE to be made available to the public.

**SCOPE & APPLICABILITY**

This I&IM is applicable for VDOT or locally-administered PCE and CE-level projects.

**REQUIREMENTS**

The table below indicates VDOT’s requirements for public involvement for PCE and CE documents.

VDOT may satisfy the coordination requirements for Section 4(f), specifically 23 CFR 774.5(b)(2)(i) for parks, recreation areas, and wildlife and waterfowl refuges, by providing for public notice and an opportunity for public review and comment on a Section 4(f) *de minimis* impact concurrently with Notices of a Willingness to Host a Public Hearing.

<b>Document</b>	<b>Willingness</b>	<b>Public Hearing</b>	<b>No Public Hearing or Willingness</b>
<b>PCE</b>	The PCE should be available by the closing date of the Willingness, but is not required to be available at that time	The PCE should be available at the public hearing, but is not required to be available	No further steps are required
<b>CE</b>	The CE will be available by the closing date of the Willingness unless FHWA concurs in writing with the CE not being available. If the CE is not available at that time and FHWA concurs, an additional public notice will be necessary and will specify a 10 business day availability of the CE. NO additional public meeting will be necessary in this case	The CE must be available at the public hearing unless FHWA concurs in writing that the CE is not required to be available. If the CE is not required to be available, an additional public notice is necessary and will specify a 10 business day availability of the CE	A public notice of availability of the CE for review will be posted for 10 business days, unless FHWA has concurred in writing with other appropriate steps for meeting document availability objectives.

## PROCEDURES

VDOT makes the following two steps in obtaining FHWA approval of a CE. The two-step CE approval process includes:

1. FHWA provides written approval via email for the CE to be made available to the public;
2. FHWA provides signed Documentation of Review Form to complete the CE process. In order to track CE advancement and inform the project team when the project is ready to go to public hearing and when NEPA is complete, the following steps shall be implemented for tracking the two-step process in CEDAR:
  - i. Activity 25 will continue to be documented as complete when the email from FHWA is received indicating the document is ready for Public Availability.
  - ii. The District Staff responsible for the CE shall create a User Defined Sub-Task to Activity 25 in CEDAR to document when VDOT receives the signed Documentation of Review Form from FHWA. Name the Sub-Task "Documentation of Review". The Start date for the Documentation of Review Sub-Task will be the same as the End date for Activity 25. The End date for the Documentation of Review Sub-Task will be the date that the FHWA Documentation of Review Form is received.
3. See CE Completion Dates: [Two-Step Process](#) for more detail.