



|  |  |                              |                               |                                  |
|--|--|------------------------------|-------------------------------|----------------------------------|
| SUBJECT<br>Public Involvement Procedures<br>for Federal-Aid Project<br>Development | FINAL NUMBER<br>GE08-03(B)   | EFFECTIVE DATE<br>12/09/2008 | VALIDATION DATE<br>08/11/2014 | SUPERSEDES or<br>RESCINDS<br>New |
|  | WEB LINK(S)<br><a href="http://www.oregon.gov/ODOT/HWY/TECHSERV/Pages/technicalguidance.aspx">http://www.oregon.gov/ODOT/HWY/TECHSERV/Pages/technicalguidance.aspx</a> |                              |                               |                                  |
| TOPIC/PROGRAM<br>National Environmental Policy<br>Act<br>(NEPA ) Program           | APPROVED SIGNATURE<br>Original signed by:<br><br>Susan Haupt<br>Geo-Environmental Manager  |                              |                               |                                  |

### *PURPOSE*

This Bulletin clarifies FHWA's public involvement requirements for Federal-Aid projects as per 23 CFR 771, *FHWA /FTA Environmental Impact and Related Procedures*. The attached *ODOT National Environmental Policy Act (NEPA) Public Involvement Procedures for Project Development* was approved by FHWA Oregon Division on September 5, 2008 and is effective immediately.

### *GUIDANCE*

The attached *ODOT National Environmental Policy Act (NEPA) Public Involvement Procedures for Project Development* applies to all Federal-Aid projects at project development initiation. The attached public involvement procedures modify public involvement guidance contained in [ODOT Environmental Procedures. Volume 1](#)

### *DEFINITIONS*

Federal-Aid project: For the purposes of this Bulletin, "Federal-Aid project" refers to any ODOT or local agency project with an FHWA or FTA nexus. In most cases, this nexus will be the receipt of FHWA funding or the need for FHWA interstate access approval.

### *BACKGROUND/REFERENCE*

FHWA NEPA implementing procedures [23 CFR 771.111\[h\]\[2\]](#) require each state DOT to have FHWA-approved public involvement procedures which apply to Federal-Aid projects. The attached *ODOT National Environmental Policy Act (NEPA) Public Involvement Procedures for Project Development* was prepared in compliance with these regulatory requirements.

### *EXPLANATION*

The attached public involvement procedures supersede NEPA public involvement guidance contained in [ODOT Environmental Procedures. Volume 1](#). The attached procedures are segregated by three distinct NEPA classes of action: Categorical Exclusion (CE), Environmental Assessment (EA), and Environmental Impact Statement

(EIS). In any given fiscal year, the classes of action percentages for Oregon STIP projects are approximately 92% CEs, 5% EAs, and 3% EISs. Public involvement procedures for each class of action are designed to be commensurate with the project's scope, level of public interest, and potential for adverse impacts to the built or natural environment.

### *RESPONSIBILITIES*

This guidance will primarily affect Project Leaders, Region Public Information and Community Affairs staff, Communications Division staff, Area Managers, Environmental Project Managers, Region Environmental Coordinators, Region Environmental Managers, and Local Agency Liaisons.

### *ACTION REQUIRED*

At project development initiation, follow the attached public involvement procedures for all Federal-Aid projects.

### *SPECIAL INSTRUCTIONS*

The attached public involvement procedures for Federal-Aid projects are effective immediately. [ODOT Environmental Procedures. Volume 1](#) will be revised to reflect the attached procedures. In the meantime, the attached public involvement procedures **supersede** Section 514 of Volume 1 (pages 87-97).

### *CONTACT INFORMATION*

Branch/Section: Geo-Environmental Section  
Phone: (503) 986-3252  
E-mail: [GeoAdminWorkOrders@odot.state.or.us](mailto:GeoAdminWorkOrders@odot.state.or.us)

Attachment: *ODOT National Environmental Policy Act (NEPA) Public Involvement Procedures for Project Development*

Oregon Department of Transportation  
*National Environmental Policy Act (NEPA) Public Involvement Procedures for Project  
Development*

To ensure that the public is involved in transportation decisions and activities, the Oregon Department of Transportation (ODOT) informs the public and seeks their input during the project development process. Specific public involvement activities for each proposed action will be commensurate with regulatory requirements, the scope of each proposed action, the intensity of public and agency interest, and the severity of potential socio-economic and environmental impacts.

The following ODOT public involvement procedures are required for all project development activities, regardless of NEPA class of action:

- As appropriate to the proposed action's scope, level of public interest, and potential for adverse impacts, public input will be sought periodically during the development of the project.
- Disadvantaged persons (e.g., low literacy and limited English proficiency populations, senior citizens, disabled persons, low-income populations) will be offered alternative accommodations (e.g., translation services, transportation) to participate in project development activities, as appropriate.
- Public outreach, including public meetings, may be used for projects where there are several practical project alternatives and/or where the project would involve potential relocations of residences, businesses, and/or institutions.
- Public notices and an opportunity for public review and comment will be provided for proposed Section 4(f) *de minimis* impact findings for parks, recreation areas or wildlife or waterfowl refuges.
- Advisory notices will be provided to the public for upcoming construction activities that could affect the local transportation system (e.g., detours, public road or access restrictions, delays, etc.).

ODOT representatives will use the following public involvement procedures for Class III (Environmental Assessment [EA]) proposed actions:

- As appropriate to the proposed action's scope, level of public interest, and potential for adverse impacts, public input will be sought during the development of the project.
- Disadvantaged persons (e.g., low literacy and limited English proficiency populations, senior citizens, disabled persons, low-income populations) will be offered alternative accommodations (e.g., translation services, transportation) to participate in project development activities, as appropriate.
- The public will be provided legal notice offering the opportunity to request a public meeting or hearing in association with release of the EA.
- A public hearing may be warranted when one or more of the following conditions are present:
  - o A group or individual has requested a public hearing;

- o Substantial residential and/or commercial displacements will result from the project;
- o Substantial socioeconomic and/or construction impacts will result from the project;
- o Disproportionate adverse environmental justice impacts are expected; or
- o Substantial public controversy exists regarding environmental impacts.
- The EA need not be circulated for public comment, but the document will be made available for public inspection (at a local ODOT office or other public location).
- If ODOT representatives, in conjunction with FHWA, choose not to hold a public meeting or hearing regarding an EA, they will advise the public of the availability of the EA and where information concerning the action may be obtained. The notice will invite comments from all interested parties.
- If public meetings or hearings are held in association with an EA, the EA will be made available at the public meeting or hearing and for a minimum of 15 days in advance of the public meeting or hearing. A notice will be published in local newspapers announcing each public meeting or hearing as well as information regarding how the EA may be obtained or reviewed.
- ODOT representatives will clarify to the public that comments need to be submitted in writing within 30 days of the publication of the EA availability notice, unless ODOT and FHWA representatives determine, for good cause, that a different review period is warranted.
- ODOT will provide public notice and an opportunity for public review and comment for proposed Section 4(f) *de minimis* impact findings for parks, recreation areas or wildlife or waterfowl refuges.
- ODOT representatives may apply some or all of the Class I (Environmental Impact Statement, EIS) public involvement procedures (below) to the EA process, as staff determine such procedures are appropriate.
- Advisory notices will be provided to the public for upcoming construction activities that could affect the local transportation system (e.g., detours, public road or access restrictions, delays, etc.).

ODOT representatives will use the following ODOT public involvement procedures for Class I (Environmental Impact Statement [EISs] proposed actions (these may also be applied to EAs, as ODOT staff determine is warranted):

- The public shall be afforded early and continuing opportunities to be involved in the identification of social, economic, and environmental impacts.
- Disadvantaged persons (e.g., low literacy and limited English proficiency populations, senior citizens, disabled persons, low-income populations) shall be offered alternative accommodations (e.g., translation services, transportation) to participate in project development activities, as appropriate.
- The public will be afforded reasonable notice of all public meetings, public hearings, and NEPA document availability. Such notice may include, but is not limited to: legal notices, newspaper and radio ads, newsletters, door-to-door solicitation - including translated material to ensure involvement by non-English speaking stakeholders.
- Notice of public meetings and public hearings will indicate the availability of explanatory information.

- A project Coordination Plan pursuant to SAFETEA-LU 6002, shall be prepared to address public and agency involvement strategies and activities during the (NEPA) process.
- Following Notice of Intent publication, a public scoping process will be conducted. The purposes of this scoping process will be to: (1) inform the public of the draft Purpose and Need, and (2) seek public input on potential environmental (natural and built) issues. ODOT representatives will also use the scoping process to involve jurisdictional and/or interested agencies on both items 1 and 2.
- The draft EIS will be circulated for public comment. The draft EIS will be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency.
- The Federal Register public availability notice will establish a period of not fewer than 45 days nor more than 60 days for the return of public comments on the draft EIS unless a different period is established in accordance with 23 U.S.C. 139(g)(2)(A). The notice and the draft EIS transmittal letter shall identify where comments are to be sent.
- A public hearing will be held during the draft EIS public comment period. The public hearing will be held no sooner than 15 days following release of the draft EIS.
- Public meetings and hearings associated with the draft EIS comment period will include the following information, as appropriate:
  - o Purpose and Need of the proposed action, including consistency with the city and county Comprehensive Plans;
  - o Proposed alternatives and their major features;
  - o Social, economic, environmental, and other potential impacts of the proposed alternatives;
  - o The relocation assistance program and right-of-way acquisition process;
  - o Draft Section 4(f) findings;
  - o Proposed mitigation and/or enhancement;
  - o Explanation of the process for receiving written and oral statements from the public.
- Public meetings and hearings associated with a draft EIS will also provide information required to comply with public involvement requirements of other laws, Executive Orders and regulations, as appropriate. Examples include, but are not limited to:
  - o SAFTEA-LU Section 6002;
  - o Section 106 of the National Historic Preservation Act;
  - o Section 4(f) of the 1966 DOT Act;
  - o Clean Water Act Section 404;
  - o Executive Order 11998 – Floodplain Management
- Associated with the draft EIS, a transcript of the public hearing (i.e., oral testimony to a court reporter, public statements before an audience of concerned citizens, written public comments submitted during the comment period) will be submitted to FHWA, including evidence that a public hearing was offered, such as the legal notice in a newspaper.
- The final EIS will be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is filed with EPA. ODOT representatives will also publish a notice of availability in local newspapers and on the project website when making the final EIS available.
- Normally, EIS documents will be furnished free of charge. However, with FHWA concurrence, the party requesting EIS documents may be charged a fee which is not more

than the actual cost of reproducing the copy or may be directed to the nearest location where the EIS and supporting materials may be reviewed.

- Advisory notices will be provided to the public for upcoming construction activities that could affect the local transportation system (e.g., detours, public road or access restrictions, delays, etc.).

Sources of Information

23 CFR 771, *FHWA Environmental Impact and Related Procedures*

23 CFR 774, *Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))*

SAFETEA-LU 6002, *Efficient Environmental Reviews for Project Decision Making*