



## CHAPTER 7: STAKEHOLDER INVOLVEMENT GUIDANCE AND PUBLIC INVOLVEMENT PLAN

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## 7.0 STAKEHOLDER INVOLVEMENT GUIDANCE AND PUBLIC INVOLVEMENT PLAN

This chapter provides guidance on public involvement and stated public involvement principles of CDOT for National Environmental Policy Act (NEPA) projects. It is intended to fulfill Federal Highway Administration (FHWA) requirements to submit a description of the public involvement component of plans, programs, and projects considered and undertaken by CDOT. It is not intended to cover public involvement requirements required by other state, federal, local, or Tribal laws and regulations. A listing of the more prominent federal requirements that may affect public involvement requirements on any given project can be found in **Attachment 1**.

This chapter outlines public involvement considerations for CDOT staff on all federal aid projects as updated because of regulation changes, refinement of requirements, and improvement in public involvement procedures that have been employed by CDOT. In keeping with CDOT's philosophy for public involvement, a similar process will be followed for all state-funded projects, as addressed in CDOT's Environmental Stewardship Guide and this Manual.

This chapter also presents guidance on public involvement activities expected to be implemented during the development of projects. This chapter replaces the *CDOT Procedures for Public Involvement and Participation in the Project Development and Environmental Analysis Process* (CDOT, 1995). A history of public involvement requirements is included in **Attachment 2**.

### 7.1 Public Involvement Overview

Public involvement is a process by which the influence of various stakeholders is organized in relationship to decision-making. Public involvement is a key component of the environmental review and project development process. Federal laws and regulations establish some basic requirements for public involvement but developing a public involvement process that is appropriate for the project and will lead to sustainable decisions requires careful planning and consideration. This often requires elements that go beyond the basic federal requirements.

Developing a public involvement plan for a project requires knowledge of the issues that could affect, or be affected by, a project as well as identifying and understanding the risks involved in making project decisions.



This chapter replaces the CDOT Procedures for Public Involvement and Participation in the Project Development and Environmental Analysis Process (CDOT, 1995).





Appropriate identification of internal and external stakeholders is part of this process. The influence of stakeholders in decision-making changes with the decisions being made, so the steps in the decision-making process change accordingly. A public involvement plan provides a framework for how stakeholders interact with the project and with decision-makers. While the plan is likely to evolve and change as circumstances dictate, a well developed public involvement plan will chart the path the Project team will take to ensure that all appropriate public involvement steps have been completed. Note that a public involvement plan is not the same as a coordination plan. **Chapter 4** contains more information on coordination plans.

### 7.1.1 Definition of Stakeholders

Stakeholders can be external or internal to CDOT and include the general public, businesses, governmental agencies, non-governmental organizations, CDOT Maintenance, and other interest groups who either have, or perceive they have, an interest in the outcome of a decision. Specific stakeholders may also be required by legislation or regulations and based on jurisdiction. These include low-income communities, minority communities, elderly, disabled, Native American Tribes, resource agencies and regulatory agencies.

### 7.1.2 Tribal Sovereignty and Government-to-Government Consultations

Consultation with Native American Tribes recognizes the government-to-government relationship between the US government and sovereign Tribal groups.

The US government and the State of Colorado have unique relationships with American Indian governments as set forth in the Constitution of the United States, treaties, statutes, court decisions, and executive orders and memoranda. These form the basis of cooperative relationships between the CDOT and its Tribal partners.

On April 29, 1994, a Presidential Memorandum was issued reaffirming the federal government's commitment to operate within a government-to-government relationship with federally recognized American Indian and Alaska Native Tribes, and to advance self-governance for such Tribes. The Presidential Memorandum directs each executive department and agency, to the greatest extent practicable and to the extent permitted by law, to consult with Tribal governments prior to taking actions that have substantial direct effects on federally recognized Tribal governments. In order to ensure that the rights of sovereign Tribal governments are fully respected, all such



Stakeholders include the general public; businesses; local, state, and federal governmental agencies; non-governmental agencies; citizen and community groups; civic and professional organizations; and other interest groups.





consultations are to be open and candid so that Tribal governments may evaluate for themselves the potential impact of relevant proposals.

On May 14, 1998, the President issued Executive Order 13084, *Consultation and Coordination with Indian Tribal Governments*, which was revoked and superseded on November 6, 2000, by the identically titled Executive Order 13175, which sets forth guidelines for all federal agencies to (1) establish regular and meaningful consultation and collaboration with Indian Tribal officials in the development of federal policies that have Tribal implications; (2) strengthen the US government-to-government relationships with Indian Tribes; and (3) reduce the imposition of unfunded mandates upon Indian Tribes.

Recognition of the independent sovereignty of Tribal governments includes the role of the Tribes in regulating impacts to resources on sovereign property, and in some cases for resources on non-sovereign lands. Mitigation for impacts to resources under the jurisdiction of the Tribal governments must be developed in coordination with the Tribal governments as an equal party to federal and state government.

### 7.1.3 Purpose for Public Involvement

Public involvement acknowledges people’s desire to participate in decisions that they perceive or actually will affect them. It provides a managed process that encourages and supports stakeholders so that input into the decision-making process is meaningful and considers their values, interests and needs.

Both the public and the decision-maker need to fully comprehend the problems, opportunities, constraints, and the available options if a viable solution is to be found. By including multiple perspectives, public involvement develops a more thorough understanding of the scope of the issues and decisions as well as a better understanding of the impacts of the project.

Effective public involvement supports the development of sustainable decisions. It is based on the values of the stakeholders and Project team, focuses on the decision to be made, and addresses the goals established for the public involvement effort.



**Section 9.10** of this Manual discusses the Tribal consultation coordination activities completed for each NEPA document by CDOT EPB.





Sustainable decisions are ones that effectively balance economic viability, technical feasibility, environmental compatibility, and public acceptability. A sustainable decision is important because it results in the development of projects that:

- ▶ Do not require significant redesign
- ▶ Are less likely to end up being litigated
- ▶ Are able to obtain all necessary permits
- ▶ Are financially responsible

Additionally, it is more likely that project decisions will continue to be applicable even if projects are not constructed immediately. By effectively involving stakeholders in a project's decision-making process, issues and opportunities are identified that might otherwise be missed. As a result, fewer issues are likely to arise after decisions are made. Non-sustainable decisions can result in the need for re-evaluation and result in time and money being lost to perform those activities.

Some areas in the project development process where public involvement can help develop sustainable decisions include:

- ▶ Definition of the project's purpose and need
- ▶ Development of key issues to be addressed in the NEPA process
- ▶ Agreement on the decision-making process and the roles and responsibilities of the different stakeholders in those decisions
- ▶ Key concerns and issues affecting alternative selection
- ▶ Mitigation needs and opportunities

## 7.2 Project Public Involvement Plan

Each project should have a public involvement strategy but a formal public involvement plan is mandatory for all Environmental Impact Statement (EIS) processes and recommended for other projects where there are complex issues. Depending on the type of NEPA document being prepared, there are specific legal requirements for public involvement that must be met. These specific requirements should be anticipated and included in the project public involvement plan and are outlined below in the required elements for NEPA compliance. In the case of smaller projects, the public involvement plan may include only basic information about how the general public will be alerted to the project, such as how any information about necessary detours or closures will be communicated. Additional resources for developing public involvement plans, tools, techniques, and other information can be found in **Attachment 3**.



All EIS projects require a public involvement plan. A public involvement strategy is recommended for other projects with complex issues.





## 7.2.1 Developing a Project Public Involvement Plan

In developing an effective public involvement plan the requirements for the coordination plan must be taken into consideration (**Chapter 4**). No set process is required, but the following steps can be implemented:

1. Identify the key issues or decisions that are relevant to project decisions
2. Gain internal commitment
3. Learn from the stakeholders
4. Select the level of involvement
5. Identify how success will be evaluated
6. Define the decision process and participant objectives
7. Develop the final project public involvement plan

Each step has a series of activities intended to provide the structure that builds upon one another. By the conclusion, the Project team should have a clear plan in place for public involvement on the project. Detailed information on the steps above for developing a public involvement plan can be found in **Attachment 4** and **Attachment 5**. A variety of different tools and techniques for involving stakeholders are available. These tools and techniques include basic informational tools such as newsletters and bulletins, information gathering techniques like surveys and public meetings, and decision-making techniques. Examples of some tools used by CDOT projects are included in **Attachment 6**. Information on a variety of different tools and techniques can be found in the Public Participation toolbox available through the International Association for Public Participation Website and through other websites listed in the **Attachment 3**.

## 7.2.2 Elements of the Public Involvement Plan

The public involvement plan should include:

- ▶ Public involvement tools and techniques intended to be used by the project and the identified stakeholders
- ▶ Timeline demonstrating when particular public involvement activities will take place and how they relate to the project development process



The steps presented in this section are one method for developing an effective public involvement plan and are based on the International Association for Public Participation: Planning for Effective Public Participation.

The International Association for Public Participation: Planning for Effective Public Participation's website <http://www.iap2.org/>





- ▶ Evaluation criteria that the Project team will be using to determine how effective the public involvement activities were in accomplishing the objectives

If the project is required to have a coordination plan under the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU) (SAFETEA-LU, 23 USC § 1001 - 11167), the public involvement plan can include these activities as well. This is recommended as it will help demonstrate how other stakeholders relate to discussions and decisions with resource and regulatory agencies.

### 7.3 *Required Elements for National Environmental Policy Act Compliance*

#### 7.3.1 Environmental Impact Statements (Class I)

**Chapter 4** discusses the process and procedures for the EIS class of action (Class I). When the notice of intent (NOI) to conduct an EIS is prepared for the Federal Register, an advertisement is also placed in local newspapers and publications to reach as many people as possible, including minorities and low-income and traditionally under-served segments of the population, such as the elderly, persons with disabilities, and those without access to transportation. The advertisements typically include the following information:

- ▶ Category of NEPA document and a general description of the project,
- ▶ Date and location of the first public meeting,
- ▶ Invitation to place names on the project mailing list,
- ▶ Information required to comply with the public involvement requirements of other laws, regulations, or Executive Orders, and
- ▶ Statement that reasonable accommodation will be provided at public meetings and hearings for persons with disabilities, and translators will be provided if necessary (**Section 7.4.1**).

**Attachment 7** includes an example advertisement.

As the project progresses, the Project team adds names to the mailing list and notifies those on the list of meetings, workshops, and new developments. The list typically includes federal and state agencies, local officials, regional transportation planning entities, citizen advisory groups, neighborhood/community groups, civic and professional organizations, property owners, and other interested citizens. The Project team should



work to ensure that the mailing list includes minority, low-income, and other under-served groups.

The Project team must also notify federal land management agencies, adjacent states, and any other agencies responsible for resources protected by federal, state, and local laws if land or resources under their jurisdiction may be impacted by the project. This also includes Tribal governments (**Section 7.1.2**), as applicable.

CDOT must contact the appropriate local, state, and federal agencies and the general public to gain their assistance in developing the purpose and need, identification of all reasonable alternatives, evaluation of the likely project impacts, and identification of possible mitigation measures. All federal, state, and local agencies that are expected to have permit approval or right-of-way transfer responsibilities are requested to be cooperating agencies or participating agencies, and their responsibilities are outlined during this scoping process. Additional information on agency scoping is provided in **Chapter 4**. A primary aim of this early coordination is to identify all applicable federal and state regulatory requirements so all necessary environmental studies, analyses, consultation, and permit coordination requirements can be incorporated into the NEPA compliance process.

Early in the development of the project, the Project team must hold at least one public scoping meeting. Notice of the meeting is sent to all individuals and agencies on the mailing list. Fliers can also be distributed and announcements posted in local papers, at local businesses and community gathering places. At the public meeting, those attending are provided with the following information if it is available:

- ▶ Need for the project
- ▶ CDOT's objectives for the project
- ▶ Project's relationship to regional and statewide transportation plans
- ▶ Potential need to acquire additional right-of-way
- ▶ Potential requirement to relocate residences or businesses
- ▶ Anticipated resources of concern

Agency representatives and members of the public are encouraged to comment on the proposed project's purpose and need, alternatives, and its social, economic, and environmental impacts. The CDOT Region then considers these comments as it develops and evaluates alternative solutions for the identified transportation problem(s). One or more subsequent meetings may be held to resolve as many issues as possible before completion of a Draft EIS, or the Project team may decide to hold a series of



meetings or workshops with various groups to explain specific aspects of the project and gain input on issues of concern.

Additional measures are required to reach minority, low-income, and traditionally under-served groups such as the elderly, persons with disabilities, and those without access to transportation. These measures supplement the public involvement activities described above. These additional activities could include:

- ▶ Providing information about the project in foreign languages
- ▶ Making information available at locations such as churches, community centers, and schools
- ▶ Holding meetings within the communities at familiar locations
- ▶ Asking to be included on the agendas of regularly scheduled community or neighborhood meetings
- ▶ Providing translators at public meetings

**Attachment 6** includes examples of other successful public involvement techniques that have been completed by CDOT Regions.

As soon as FHWA approves the Draft EIS, it is circulated for public and agency review. FHWA distributes copies to appropriate federal agencies and transmits copies to the Environmental Protection Agency for publication of availability in the Federal Register. The Project team announces the document's availability in the newspapers and minority publications previously identified. These announcements must indicate where the document and explanatory information are available, give the date and location of the public hearing, request comments on the Draft EIS, indicate how to submit comments, and include any information necessary to comply with the public involvement requirements of other laws, regulations, and Executive Orders applicable to the project. The Draft EIS is made available at local sites such as libraries and municipal buildings, CDOT Region and Headquarters offices, FHWA, and at the public hearing described below.

Public hearings must be held for all EISs following the distribution of the Draft EIS. The date of the first required hearing must be at least 15 days after the notice of availability (NOA) of the Draft EIS is published in the Federal Register. The Draft EIS must be available for public review at CDOT Region and Headquarters offices and at FHWA for a minimum of 15 days before the hearing and for a total period of at least 45 days. This time frame may be extended if circumstances warrant.



The public hearing offers the public the opportunity to comment on the Draft EIS, the alternatives under consideration, and the anticipated impacts. Those attending have the opportunity to make written comments or to make an oral statement, which must be recorded verbatim. Translators should be provided so that everyone can be involved and provide comments.

Written comments received during the review period and at the hearing and a certified transcript of any verbal comments made for the record at the hearing are provided to FHWA. They become part of the project record and are addressed in the Final EIS or included in the Record of Decision (ROD).

In addition to copies of the Draft EIS, the following information is made available at the hearing:

- ▶ Purpose and need for the project and consistency with statewide, regional, and local planning
- ▶ Major design features (i.e. number of lanes, access control, bridges, interchanges, right-of-way requirements)
- ▶ Figure and description of each alternative and summary of its advantages and disadvantages
- ▶ Social, economic, and environmental impacts of each alternative,
- ▶ Avoidance, minimization, and mitigation measures under consideration as well as all enhancement measures
- ▶ Approximate timetable for the project
- ▶ Right-of-way acquisition procedures, relocation assistance, and payment programs
- ▶ Explanation of the FHWA - CDOT relationship
- ▶ Source and amount of funding available and the staged funding plan, if applicable
- ▶ Information required to comply with other laws, regulations, and Executive Orders
- ▶ Procedures for making written or oral comments for the record

Comments received during the hearings must be responded to in the Final EIS.





### 7.3.2 Categorical Exclusions (Class II)

Each Categorical Exclusion (CatEx) project is given specific consideration by the CDOT Region Planning and Environmental Manager (RPEM) and FHWA at the time it is categorized to identify any special aspects of the project which might require coordination with interested groups, agencies, or individuals. **Chapter 5** discusses the process and procedures for the CatEx class of action (Class II).

While most CatExs will not require any specific public involvement procedures, the opportunity for a public meeting or other public involvement activities may need to be offered for some CatExs as determined by FHWA and CDOT. In these situations, the Project team places an advertisement in local newspapers, and where possible, in publications that serves minorities and low-income populations and traditionally underserved segments of the population, announcing the date and location for the meeting. The announcement should be advertised at least 10 days prior to the hearing and the announcement must include the following information:

- ▶ Category of NEPA document and a general description of the project
- ▶ Date and location of the public meeting
- ▶ Information required to comply with the public involvement requirements of other laws, regulations, or Executive Orders applicable to the project
- ▶ Statement that reasonable accommodations will be provided at public meetings and hearings for persons with disabilities and that translators will be provided if necessary

**Attachment 7** contains an example meeting notice. At the conclusion of the public meeting, the Project team prepares a memorandum for the record which includes a description of the project, a transcript of any testimony presented at the meeting, responses to oral and written comments made by the public or involved agencies up to 10 days following the meeting, and a decision on the appropriateness of the CatEx categorization.

### 7.3.3 Environmental Assessments (Class III)

Public involvement procedures for an Environmental Assessment (EA) are similar to those required for an EIS. However, the process is more flexible, in order to focus on those issues of true concern or controversy. **Chapter 6** discusses the process and procedures for the EA class of action (Class III).



After categorization, the Project team may place an advertisement announcing the project in local newspapers, and where possible, in publications that serve minorities, low-income populations, and other traditionally under-served segments of the population. When placed, these advertisements should include the following information:

- ▶ Category of NEPA document and a general description of the project
- ▶ Date and location of the first public meeting or hearing, if scheduled
- ▶ Invitation to be added to the project mailing list
- ▶ Information required to comply with the public involvement requirements of other laws, regulations, or Executive Orders applicable to the project
- ▶ Statement that reasonable accommodations will be provided at public meetings and hearings for persons with disabilities and that translators will be provided if necessary

An example meeting notice is included in **Attachment 7**.

As the EA progresses, the Project team adds names to the mailing list and notifies those on the list of meetings, workshops, and new developments. The mailing list includes federal and state agencies, local officials, regional transportation planning entities, citizen advisory groups, neighborhood and community groups, civic and environmental organizations, affected property owners, and interested citizens. Minority, low-income, and other under-served groups should be included on the mailing list.

If land or resources under their jurisdiction may be impacted by the project, the Project team must also notify federal land management agencies, adjacent states, and agencies responsible for resources protected by federal, state, and local laws. This includes Tribal governments (**Section 7.1.2**), as applicable.

The CDOT Region uses information gained in the Statewide Transportation Planning and Programming process and through project coordination with the public, neighborhood/community groups, and other groups and agencies to gain information on the social, economic, and environmental impacts that are likely to result from the project.

Public hearings are not mandatory for EAs, but public meetings or other activities are recommended. The decision on whether or not to hold public meetings is made by the CDOT Region Transportation Director (RTD), in consultation with the RPEM and FHWA, and is based on the interest



expressed by the public, the complexity of the project, the amount of right-of-way to be acquired, and the number of relocations anticipated on the project and the requirements of 23 CFR 771.111 (h) (FHWA and Federal Transit Administration [FTA], 23 CFR 771 § 771.101 – 771.131).

Public meetings are the responsibility of the CDOT Region. However, the Region may ask Headquarters staff personnel or representatives from other agencies to attend, based on their areas of expertise. Notice of the meetings is provided to everyone on the project mailing list. Other public involvement tools, such as workshops, charrettes, or topic discussions may be used in addition to the public meetings.

The Project team considers all information gathered through environmental studies, inter-agency coordination, and public involvement activities to prepare the EA. The document includes a summary of public involvement activities and the results of coordination with other agencies. Upon completion, the Project team announces the availability of the EA and offers the opportunity for a public hearing in newspaper advertisements, press releases and other means, as appropriate. The NOA invites comments, offers the opportunity to request a hearing, and includes any information necessary to comply with the public involvement requirements of other laws, regulations, and Executive Orders. If a public hearing is requested by only a few individuals or agencies, a meeting with the interested parties may be held in lieu of a public hearing.

The EA is made available at local sites, CDOT Region and Headquarters offices, FHWA, and at the public hearing, if one is held. The CDOT Region sends copies of the EA to all parties who have requested it and sends copies of the NOA to affected units of the federal, state, and local governments and to all parties on the mailing list. The EA must be available for a minimum of 15 days before the hearing, and comments must be accepted for a total of at least 30 days. If a public hearing is not held, the document is made available for comments for a minimum of 30 days.

If a public hearing is held, it is conducted in the same manner as a hearing for an EIS. Comments received during the review period and at the hearing are addressed, and the comments and responses are incorporated into the Finding of No Significant Impact (FONSI). Notice of the availability of the FONSI is sent to affected agencies of government and the document is made available to the public, upon request. If the completion of the EA leads to a decision to prepare an EIS, the reasons underlying this decision should be included in the NOI to prepare a Draft EIS.



### 7.3.4 Reevaluations and Supplemental Actions

Where a reevaluation or supplemental action is necessary, public involvement steps are determined by the CDOT Region and CDOT Environmental Programs Branch, in consultation with FHWA.

## 7.4 Public Involvement Documentation

Documentation is critical to the overall public involvement process and to demonstrate that the letter and spirit of laws and regulations requiring public involvement were followed. When public involvement activities take place, documentation of the activities, the participants, and the results of the activities as well as any follow up activities that may be necessary is required as part of the project file. Documentation should be prepared as quickly after the activity as possible. Some events, such as formal public hearings, require specific documentation activities that must be followed.

Basic documentation that should be collected for all public involvement activities which become part of the project administrative record includes:

- ▶ Advertisements used for activity/event
- ▶ Participant sign-in sheets
- ▶ Copies of handouts
- ▶ Documentation of displays or exhibits used
- ▶ Documentation of the discussions, comments, questions, and oral or written responses
- ▶ All correspondences and acknowledgements/responses
- ▶ Purpose for event/activity

Primary issues identified as well as the purpose for each public involvement activity should be documented. The majority of this documentation will become part of the project file and the administrative record for the project, but need not be included within the NEPA document itself or its appendices.

Documentation in the NEPA document should:

- ▶ Identify goals and objectives for the public involvement
- ▶ Identify public involvement tools, techniques, and activities including the intended purpose, what was achieved, and the effect of the public involvement activities on the decision-making process



- ▶ Identify a timeline for activities required for the NEPA process such as the NOI, NOA of the document, public hearing dates, and public comment periods
- ▶ Include responses to public comments for the Final EIS and FONSI. If additional comments were accepted after the Final EIS, response to those comments must be included in the ROD

### 7.4.1 Reasonable Accommodations Language

To accommodate all members of the public, including those with disabilities, access to public information and public meeting venues will be in accordance with the Americans with Disabilities Act of 1990 (ADA) and other statutory regulations. According to the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from involvement in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. All events held for projects receiving federal funds and that are open to the general public must be made accessible to everyone including persons with sight, hearing or mobility disabilities. Special effort will be made to ensure involvement by the disability community. Public notices and other notification about public meetings must inform the public of how to ask for reasonable accommodations.



#### ADA Public Notice Sample Language

“Meeting locations are ADA accessible. Reasonable accommodations for participation in this event will be made upon request, including those for disabilities and translation services.”

### 7.4.2 Public Hearing Requirements

As detailed above, when a public hearing is held for a project, a transcript of the hearing must be taken. The format of the public hearing varies and could be an open house format and/or a formal presentation. The NEPA document must be available for review at the public hearing and for at least 15 days prior to the public hearing. Opportunities for the public to provide comments in addition to the transcriber should be available. This usually is in the form of comment sheets that can be submitted at the public hearing or mailed back at a later date. Depending on the constituency, a translator may be necessary. Information regarding the project should be presented and should include, but is not limited to, project purpose and need, alternatives, including the Preferred Alternative if one has been identified, impacts and mitigation associated with the project, and any other pertinent information. This information is often presented as boards that are displayed around the room, but other visual-aid medium may also be used especially if a formal presentation is given. The NOA of the document for review should include the day, time and location of the public hearing and how and to whom comments should be submitted.





Public Hearings are different from public meetings. Public hearings are formal events for soliciting public input and occur as specified times in the NEPA process and are open to anyone to attend. Public meetings may occur at any time in the process, can be less formal, and may be targeted to specific stakeholders or topics. **Attachment 8** includes guidelines for conducting open forum public meetings and hearings.

### 7.4.3 Comment Forms

Comment forms should be provided at every public meeting and public hearing. They should include the address and contact person for return by mail. Comment forms can also be available on a project website. If a large number of comments are expected or are received, a comment tracking form is a useful tool, especially for larger and more controversial projects with high public involvement. **Attachment 7** includes a sample comment form.



## 7.5 References

Colorado Department of Transportation (CDOT). 1995. CDOT Procedures for Public Involvement and Participation in the Project Development and Environmental Analysis Process. March.

Federal Highway Administration (FHWA)/Federal Transit Administration (FTA). 1987 as amended in 2005. Environmental Impact and Related Procedures. 23 Code of Federal Regulations (CFR) 771 § 771.101 – 771.131. Retrieved August 2008 from <http://environment.fhwa.dot.gov/projdev/imp771pream.asp>.

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). 2005. 23 USC § 1001 - 11167. Retrieved July 2008 from <http://www.fhwa.dot.gov/safetealu/index.htm>.



## ATTACHMENT 1: FEDERAL REGULATIONS RELATED TO PUBLIC INVOLVEMENT FOR TRANSPORTATION PLANNING AND PROJECT DEVELOPMENT

### Federal Laws and Regulations

United States Code (USC) (<http://uscode.house.gov/search/criteria.shtml>)

#### Title 23 Highways

- ▶ 23 USC 134: Metropolitan Transportation Planning
- ▶ 23 USC 135: Statewide Planning
- ▶ 23 USC 128: Public Hearings

#### Title 33 Navigation and Navigable Waters

#### Title 42 The Public Health and Welfare

#### SAFETEA LU codification

Code of Federal Regulations (CFR) (<http://www.gpoaccess.gov/cfr/index.html>)

- ▶ 23 CFR 450: Highways, Planning Assistance and Standards (Metropolitan and State)
- ▶ 23 CFR 771: The policies and procedures of FHWA for implementing the National Environmental Policy Act of 1969 as amended (NEPA)
- ▶ 40 CFR 1500 through 1508: Regulations of the Council on Environmental Quality
- ▶ 23 CFR 772: Procedures for Abatement of Highway Traffic Noise and Construction Noise
- ▶ 23 CFR 740: Relocation Assistance
- ▶ 49 CFR 24: Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs
- ▶ 40 CFR 51: Requirements for Preparation, Adoption, and Submittal of Implementation Plans
- ▶ 40 CFR 93: Determining Conformity of Federal Actions to State or Federal Implementation Plans
- ▶ 36 CFR 800: Protection of Historic Properties



**COLORADO**  
Department of  
Transportation



Source	Citation
<b>PROJECT DEVELOPMENT – DESIGN CRITERIA</b>	
23 USC 109	<p>(c) <b>Design Criteria for National Highway System.</b> –</p> <p>(1) A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System may take into account,--</p> <p>(A) the constructed and natural environment of the area;</p> <p>(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and</p> <p>(C) access for other modes of transportation.</p> <p>(h) the Secretary shall submit to Congress, and promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any federal-aid system have been fully considered. and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:</p> <p>(1) air, noise, and water pollution;</p> <p>(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;</p> <p>(3) adverse employment effects, and tax and property values losses;</p> <p>(4) injurious displacement of people, businesses and farms; and</p> <p>(5) disruption of desirable community and regional growth.</p>
<b>PROJECT DEVELOPMENT – NEPA</b>	
SAFETEA-LU	<p>6002(f) Purpose and Need.--</p> <p>(1) Participation.--As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.</p> <p>6002(f)(4)(A) Participation.--As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.</p> <p>6002 (g) Coordination and Scheduling.--</p> <p>(1) Coordination plan.--</p> <p>(A) In general.--The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.</p> <p>(B) Schedule.--</p> <p>(i) In general.--The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the project and with the state in which the project is located (and, if the state is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.</p> <p>(ii) Factors for consideration.--In establishing the schedule, the lead agency shall consider factors such as—</p> <p>(i) the responsibilities of participating agencies under applicable laws;</p> <p>(ii) resources available to the cooperating agencies;</p> <p>(iii) overall size and complexity of the project;</p> <p>(iv) the overall schedule for and cost of the project; and</p>



Source	Citation
	<p>(v) the sensitivity of the natural and historic resources that could be affected by the project.</p> <p>(C) Consistency with other time periods.--A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under federal law.</p> <p>(D) Modification.--The lead agency may--</p> <ul style="list-style-type: none"> <li>(i) lengthen a schedule established under subparagraph (B) for good cause; and</li> <li>(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.</li> </ul> <p>(E) Dissemination.--A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be--</p> <ul style="list-style-type: none"> <li>(i) provided to all participating agencies and to the state transportation department of the state in which the project is located (and, if the state is not the project sponsor, to the project sponsor); and</li> <li>(ii) made available to the public.</li> </ul> <p>(2) Comment deadlines.--The lead agency shall establish the following deadlines for comment during the environmental review process for a project:</p> <p>(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless--</p> <ul style="list-style-type: none"> <li>(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or</li> <li>(ii) the deadline is extended by the lead agency for good cause.</li> </ul> <p>(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless--</p> <ul style="list-style-type: none"> <li>(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or</li> <li>(ii) the deadline is extended by the lead agency for good cause.</li> </ul> <p>(3) Deadlines for decisions under other laws.--In any case in which a decision under any federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives--</p> <ul style="list-style-type: none"> <li>(A) as soon as practicable after the 180-day period, an initial notice of the failure of the federal agency to make the decision; and</li> <li>(B) every 60 days thereafter until such date as all decisions of the federal agency relating to the project have been made by the federal agency, an additional notice that describes the number of decisions of the federal agency that remain outstanding as of the date of the additional notice.</li> </ul> <p>(4) Involvement of the public.--Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing federal law, including a regulation.</p> <p>(h) Issue Identification and Resolution.--</p> <ul style="list-style-type: none"> <li>(1) Cooperation.--The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project</li> </ul>



Source	Citation
	<p>under applicable laws.</p> <p>(2) Lead agency responsibilities.--The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.</p>
23 CFR 771	The policies and procedures of the FHWA and UMTA for implementing the National Environmental Policy Act of 1969 as amended (NEPA), and the regulation of the Council on Environmental Quality (CEQ), 40 CFR parts 1500 through 1508 and Department of Transportation (DOT) requirements under NEPA for the processing of highway and urban mass transportation projects.
23 CFR 771.105	<p>It is the policy of the Administration that:</p> <p>(a) To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation.</p> <p>(b) Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the social, economic, and environmental impacts of the proposed transportation improvement; and of national, State, and local environmental protection goals.</p> <p>(c) Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.</p> <p>(f) No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation.</p>
23 CFR 771.111	<p><b>Early coordination, public involvement, and project development.</b></p> <p>(a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document.</p> <p>(h) For the federal-aid highway program:</p> <p>(1) Each state must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C.128 and 40 CFR parts 1500 through 1508.</p> <p>(2) State public involvement/public hearing procedures must provide for:</p> <p>(i) Coordination of public involvement activities and public hearings with the entire NEPA process.</p> <p>(ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.</p> <p>(iii) One or more public hearings or the opportunity for hearing(s) to be held by the state highway agency at a convenient time and place for any federal-aid projects which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.</p>



Source	Citation
	<ul style="list-style-type: none"> <li>(iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive orders, and regulations.</li> <li>(v) Explanation at the public hearing of the following information, as appropriate:                             <ul style="list-style-type: none"> <li>(A) The project's purpose, need, and consistency with the goals and objectives of any local urban planning,</li> <li>(B) The project's alternatives, and major design features,</li> <li>(C) The social, economic, environmental, and other impacts of the project,</li> <li>(D) The relocation assistance program and the right-of-way acquisition process.</li> <li>(E) The state highway agency's procedures for receiving both oral and written statements from the public.</li> </ul> </li> <li>(vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.</li> </ul> <p>(3) Based on the reevaluation of the project environmental documents the FHWA and the state highway agency will determine whether changes in the project or new information warrant additional public involvement.</p> <ul style="list-style-type: none"> <li>(i) Applicants for capital assistance in the UMTA program achieve public participation on proposed projects by holding public hearings and seeking input from the public through the scoping process for environmental documents. For projects requiring EISs, a public hearing will be held during the circulation period of the draft EIS. For all other projects, an opportunity for public hearings will be afforded with adequate prior notice, and such hearings will be held when anyone with a significant social, economic, or environmental interest in the matter requests it. Any hearing on the action must be coordinated with the NEPA process to the fullest extent possible.</li> </ul>
23 CFR 771.113	<p><b>Timing of Administration activities.</b></p> <ul style="list-style-type: none"> <li>(a) The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition, purchase of construction materials or rolling stock, or project construction shall not proceed until</li> <li>(2) For actions proposed for FHWA funding, the FHWA Division Administrator has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;</li> </ul>





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23 CFR 771.119	<p><b>Environmental Assessments.</b></p> <p>(b) For actions that require an EA, the applicant, in consultation with the Administration, shall, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which should be performed concurrently with the EA. The applicant shall accomplish this through an early coordination process (i.e., procedures under §771.111) or through a scoping process. Public involvement shall be summarized and the results of agency coordination shall be included in the EA.</p> <p>(d) The EA need not be circulated for comment but the document must be made available for public inspection at the applicant's office and at the appropriate Administration field offices in accordance with paragraphs (e) and (f) of this section. Notice of availability (NOA) of the EA, briefly describing the action and its impacts shall be sent by the applicant to the affected units of federal, state and local government. Notice shall also be sent to the state intergovernmental review contacts established under Executive Order 12372.</p> <p>(e) When a public hearing is held as part of the application for federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained or reviewed. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the availability of the EA unless the Administration determines, for good cause, that a different period is warranted. Public hearing requirements are as described in § 771.111.</p> <p>(f) When a public hearing is not held, the applicant shall place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the publication of the notice unless the Administration determines, for good cause, that a different period is warranted.</p> <p>(g) If no significant impacts are identified, the applicant shall furnish the administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI.</p> <p>(h) When the Administration expects to issue a FONSI for an action described in §771.115(a) copies of the EA shall be made available for public review (including the affected units of government) for a minimum of 30 days before the Administration makes its final decision. This public availability shall be announced by a notice similar to a public hearing notice.</p>
23 CFR 771.121	<p><b>Findings of No Significant Impact.</b></p> <p>(b) After a FONSI has been made by the Administration, a NOA of the FONSI shall be sent by the applicant to the affected units of federal, state and local government and the document shall be available from the applicant and the Administration upon request by the public.</p>
23 CFR 771.123	<p><b>Draft Environmental Impact Statements.</b></p> <p>(a) When the decision has been made by the Administration to prepare an EIS, the Administration will issue a notice of intent (NOI) (40 CFR 1508.22) for publication in the Federal Register. Applicants are encouraged to announce the intent to prepare an EIS by appropriate means at the local level.</p> <p>(b) The scoping process will be used to identify the range of alternatives and impacts and the significant</p>





Source	Citation
	<p>issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7. For FHWA, scoping is normally achieved through public and agency involvement procedures required by §771.111. For UMTA, scoping is achieved by soliciting agency and public responses to the action by letter or by holding scoping meetings. If a scoping meeting is to be held, it should be announced in the Administration's NOI and by appropriate means at the local level.</p> <p>(f) A lead, joint lead, or a cooperating agency shall be responsible for printing the EIS. The Initial printing of the draft EIS shall be in sufficient quantity to meet requirements for copies which can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the draft EIS 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 statement may be reviewed.</p> <p>(g) The draft EIS shall be circulated for comment by the applicant on behalf of the Administration. The draft EIS shall 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 in accordance with 40 CFR 1506.9. The draft EIS shall be transmitted to:</p> <ol style="list-style-type: none"> <li>(1) Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;</li> <li>(2) Federal, state and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action.</li> </ol> <p>(h) The UMTA requires a public hearing during the circulation period of all draft EISs. FHWA public hearing requirements are as described in §771.111(h). Whenever a public hearing is held, the draft EIS shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS shall be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in a newspaper similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments should be sent.</p> <p>(i) The Federal Register public availability notice (40 CFR 1506.10) shall establish a period of not less than 45 days for the return of comments on the draft EIS. The notice and the draft EIS transmittal letter shall identify where comments are to be sent.</p>
23 CFR 771.125	<p><b>Final Environmental Impact Statements.</b></p> <p>(a)(1) After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action.</p> <p>(f) The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS 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 statement may be reviewed.</p> <p>(g) The final EIS shall 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. In</p>



Source	Citation
	<p>the case of lengthy documents, the agency may provide alternative circulation processes in accordance with 40 CFR 1502.19. The applicant shall also publish a NOA in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When filed with EPA, the final EIS shall be available for public review at the applicant's offices and at appropriate Administration offices. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.</p>
23 CFR 771.127	<p><b>Record of Decision.</b></p> <p>(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the Federal Register or 90 days after publication of a notice for the draft EIS, whichever is later.</p> <p>(b) If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures of findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS. To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to §771.125(g).</p>
23 CFR 771.135	<p><b>Section 4(f)</b></p> <p>(a)(I) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:</p> <ul style="list-style-type: none"> <li>(i) There is no feasible and prudent alternative to the use of land from the property; and</li> <li>(ii) The action includes all possible planning to minimize harm to the property resulting from such use.</li> </ul>
<b>Regulations of the Council on Environmental Quality for Implementation of NEPA</b>	
40 CFR 1500.1	<p>(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.</p>
40 CFR 1500.2	<p><b>Policy</b></p> <p>Federal agencies shall to the fullest extent possible:</p> <ul style="list-style-type: none"> <li>(b) Implement procedures to make the NEPA process more useful to decision-makers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives.</li> <li>(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.</li> <li>(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.</li> <li>(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.</li> </ul>





Source	Citation
40 CFR 1500.4	<p><b>Reducing paperwork.</b>                      Agencies shall reduce excessive paperwork by:</p> <ul style="list-style-type: none"> <li>(d) Writing environmental impact statements in plain language (Sec. 1502.8).</li> <li>(f) Emphasizing the portions of the environmental impact statement that are useful to decision-makers and the public (Secs. 1502.14 and 1502.15) and reducing emphasis on background material (Sec. 1502.16).</li> <li>(h) Summarizing the environmental impact statement (Sec. 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (Sec. 1502.19).</li> </ul>
40 CFR 1501.4	<p><b>Whether to prepare an Environmental Impact Statement.</b>                      In determining whether to prepare an environmental impact statement the federal agency shall:</p> <ul style="list-style-type: none"> <li>(a) Determine under its procedures supplementing these regulations (described in Sec. 1507.3) whether the proposal is one which:                             <ul style="list-style-type: none"> <li>(1) Normally requires an environmental impact statement, or</li> <li>(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).</li> </ul> </li> <li>(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (Sec. 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by Sec. 1508.9(a)(1).</li> <li>(e) Prepare a finding of no significant impact (Sec. 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.                             <ul style="list-style-type: none"> <li>(1) The agency shall make the finding of no significant impact available to the affected public as specified in Sec. 1506.6.</li> <li>(2) In certain limited circumstances, which the agency may cover in its procedures under Sec. 1507.3, the agency shall make the finding of no significant impact available for public review (including state and area wide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:                                     <ul style="list-style-type: none"> <li>(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to Sec. 1507.3, or</li> <li>(ii) The nature of the proposed action is one without precedent.</li> </ul> </li> </ul> </li> </ul>
40 CFR 1501.7	<p><b>Scoping</b>                      There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a NOI (Sec. 1508.22) in the Federal Register (except as provided in Sec. 1507.3(e)).</p> <ul style="list-style-type: none"> <li>(a) As part of the scoping process the lead agency shall:                             <ul style="list-style-type: none"> <li>(1) Invite the participation of affected federal, State, and local agencies, any affected Indian Tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under Sec. 1507.3(c). An agency may give notice in accordance with Sec. 1506.6.</li> <li>(2) Determine the scope (Sec. 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.</li> </ul> </li> <li>(b) As part of the scoping process the lead agency may:</li> </ul>



Source	Citation
	(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.
40 CFR 1502.1	<p><b>Purpose [of Environmental Impact Statement].</b>                      The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the federal government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.</p>
40 CFR 1502.8	<p><b>Writing.</b>                      Environmental impact statements shall be written in plain language and may use appropriate graphics so that decision-makers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.</p>
40 CFR 1502.9	<p><b>Draft, final, and supplemental statements.</b>                      c) Agencies:                      (4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.</p>
40 CFR 1502.11	<p><b>Cover sheet.</b>                      The cover sheet shall not exceed one page. It shall include:                      (f) The date by which comments must be received (computed in cooperation with EPA under Sec. 1506.10).</p>
40 CFR 1502.19	<p><b>Circulation of the Environmental Impact Statement.</b>                      Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in Sec. 1502.18(d) and unchanged statements as provided in Sec. 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:                      (c) Any person, organization, or agency requesting the entire environmental impact statement.                      (d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft. If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.</p>
40 CFR 1503.1	<p><b>Inviting comments.</b>                      (a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:                      (4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.                      (b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under Sec. 1506.10.</p>





Source	Citation
40 CFR 1503.4	<p><b>Response to comments.</b></p> <p>(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:</p> <ol style="list-style-type: none"> <li>(1) Modify alternatives including the proposed action.</li> <li>(2) Develop and evaluate alternatives not previously given serious consideration by the agency.</li> <li>(3) Supplement, improve, or modify its analyses.</li> <li>(4) Make factual corrections.</li> <li>(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.</li> </ol> <p>(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.</p> <p>(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (Sec. 1502.19). The entire document with a new cover sheet shall be filed as the final statement (Sec. 1506.9).</p>
40 CFR 1505	<p><b>NEPA and Agency Decision-making</b></p> <p>1505.1 Agency decision-making procedures.</p> <p>Agencies shall adopt procedures to ensure that decisions are made in accordance with the policies and purposes of the Act [NEPA]. Such procedures shall include but not be limited to:</p> <ol style="list-style-type: none"> <li>(1) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.</li> <li>(e) Requiring that the alternatives considered by the decision-maker are encompassed by the range of alternatives discussed in the relevant environmental documents. If another decision document accompanies the relevant environmental documents to the decision-maker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.</li> </ol>
40 CFR 1505.3	<p><b>Implementing the decision.</b></p> <p>The lead agency shall:</p> <ol style="list-style-type: none"> <li>(d) Upon request, make available to the public the results of relevant monitoring.</li> </ol>
40 CFR 1506	<p><b>Other Requirements of NEPA</b></p> <p>1506.2 Elimination of duplication with state and local procedures.</p> <ol style="list-style-type: none"> <li>(b) Agencies shall cooperate with state and local agencies to the fullest extent possible to reduce duplication between NEPA and state and local requirements such cooperation shall to the fullest extent possible include:             <ol style="list-style-type: none"> <li>(3) Joint public hearings (except where otherwise provided by statute).</li> </ol> </li> </ol>



Source	Citation
40 CFR 1506.6	<p><b>Public involvement.</b>                      Agencies shall:</p> <ul style="list-style-type: none"> <li>(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.</li> <li>(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.                             <ul style="list-style-type: none"> <li>(1) In all cases the agency shall mail notice to those who have requested it on an individual action.</li> <li>(2) In the case of an action with effects of national concern notice shall include publication in the Federal Register and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the 102 Monitor. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.</li> </ul> </li> <li>(3) In the case of an action with effects primarily of local concern the notice may include:                             <ul style="list-style-type: none"> <li>(i) Notice to state and area wide clearinghouses pursuant to OMB Circular A-95 (Revised).</li> <li>(ii) Notice to Indian Tribes when effects may occur on reservations.</li> <li>(iii) Following the affected State's public notice procedures for comparable actions.</li> <li>(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).</li> <li>(v) Notice through other local media.</li> <li>(vi) Notice to potentially interested community organizations including small business associations.</li> <li>(vii) Publication in newsletters that may be expected to reach potentially interested persons.</li> <li>(viii) Direct mailing to owners and occupants of nearby or affected property.</li> <li>(ix) Posting of notice on and off site in the area where the action is to be located.</li> </ul> </li> <li>(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:                             <ul style="list-style-type: none"> <li>(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.</li> <li>(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).</li> </ul> </li> <li>(d) Solicit appropriate information from the public.</li> <li>(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.</li> <li>(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other federal agencies, including the Council [on Environmental Quality].</li> </ul>



Source	Citation
<b>NOISE ABATEMENT</b>	
23 CFR 772	<p><b>Procedures for Abatement of Highway Traffic Noise and Construction Noise</b>  <b>Sec. 772.9 Analysis of traffic noise impacts and abatement measures.</b>                      (a) The highway agency shall determine and analyze expected traffic noise impacts and alternative noise abatement measures to mitigate these impacts, giving weight to the benefits and cost of abatement, and to the overall social, economic and environmental effects.</p> <p><b>Sec. 772.11 Noise abatement.</b>                      (a) In determining and abating traffic noise impacts, primary consideration is to be given to exterior areas. Abatement will usually be necessary only where frequent human use occurs and a lowered noise level would be of benefit.                      (b) In those situations where there are no exterior activities to be affected by the traffic noise, or where the exterior activities are far from or physically shielded from the roadway in a manner that prevents an impact on exterior activities, the interior criterion shall be used as the basis of determining noise impacts.                      (c) If a noise impact is identified, the abatement measures listed in Sec. 772.13(c) of this chapter must be considered.                      (d) When noise abatement measures are being considered, every reasonable effort shall be made to obtain substantial noise reductions.                      (e) Before adoption of a final environmental impact statement or finding of no significant impact, the highway agency shall identify:                          (1) Noise abatement measures which are reasonable and feasible and which are likely to be incorporated in the project, and                          (2) Noise impacts for which no apparent solution is available.                      (f) The views of the impacted residents will be a major consideration in reaching a decision on the reasonableness of abatement measures to be provided.</p> <p><b>Sec. 772.15 Information for local officials.</b>                      In an effort to prevent future traffic noise impacts on currently undeveloped lands, highway agencies shall inform local officials within whose jurisdiction the highway project is located of the following:                      (a) The best estimation of future noise levels (for various distances from the highway improvement) for both developed and undeveloped lands or parties in the immediate vicinity of the project,                      (b) Information that may be useful to local communities to protect future land development from becoming incompatible with anticipated highway noise levels, and                      (c) Eligibility for federal-aid participation for Type II projects</p>
<b>Uniform Relocation Assistance and Real Property Acquisition</b>	
49 CFR 24	<p><b>Transportation. Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs</b>  <b>Sec. 24.5 Manner of notices.</b>                      Each notice which the Agency is required to provide to a property owner or occupant under this part, shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.</p>





Source	Citation
	<p><b>Sec. 24.205 Relocation planning, advisory services, and coordination.</b></p> <p>(a) Relocation planning. During the early stages of development, federal and federal-aid programs or projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement.</p> <p>(c) Relocation assistance advisory services--(1) General. The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offers the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.</p> <p>(2) Services to be provided. The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:</p> <ul style="list-style-type: none"> <li>(i) Determine the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each person.</li> <li>(ii) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in Sec. 24.204(a).</li> </ul> <p>(A) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (see Sec. 24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.</p>
23 CFR 740.35	Full and adequate public notice of the relocation assistance program shall be given.
<b>TRANSPORTATION CONFORMITY (EPA – Clean Air Act)</b>	
40 CFR 51	<p><b>Transportation Conformity Rule</b></p> <p>Environmental Protection Agency, Part 51 – Requirements for Preparation, Adoption, and Submittal of Implementation Plans</p>
40 CFR 93	<p><b>Determining Conformity of Federal Actions to State or Federal Implementation Plans</b></p> <p>Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws</p> <p><b>Sec 93.100 Purpose</b></p> <p>The purpose of this subpart is to implement section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 et seq.), and the related requirements of 23 U.S.C. 109(j), with respect to the conformity of transportation plans, programs, and projects which are developed, funded, or approved by the United States Department of Transportation (DOT), and by metropolitan planning organizations (MPOs) or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53).</p>





Source	Citation
	<p><b>Sec. 93.105 Consultation.</b></p> <p>(a) General. The implementation plan revision required under Sec. 51.390 of this chapter shall include procedures for interagency consultation (federal, state, and local), resolution of conflicts, and public consultation as described in paragraphs (a) through (e) of this section. Public consultation procedures will be developed in accordance with the requirements for public involvement in 23 CFR part 450.</p> <p>(e) Public consultation procedures. Affected agencies making conformity determinations on transportation plans, programs, and projects shall establish a proactive public involvement process which provides opportunity for public review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the agency at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with these requirements and those of 23 CFR 450.316(b). Any charges imposed for public inspection and copying should be consistent with the fee schedule contained in 49 CFR 7.95. In addition, these agencies must specifically address in writing all public comments that known plans for a regionally significant project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP. These agencies shall also provide opportunity for public involvement in conformity determinations for projects where otherwise required by law.</p> <p><b>Sec. 93.156 Public Participation.</b></p> <p>a) Upon request by any person regarding a specific federal action, a federal agency must make available for review its draft conformity determination under Sec. 93.158 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.</p> <p>b) A federal agency must make public its draft conformity determination under Sec. 93.158 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.</p> <p>c) A federal agency must document its response to all the comments received on its draft conformity determination under Sec. 93.158 and make the comments and responses available, upon request by any person regarding a specific federal action, within 30 days of the final conformity determination.</p> <p>d) A federal agency must make public its final conformity determination under Sec. 93.158 for a federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination.</p>
<b>ADVISORY COUNCIL ON HISTORIC PRESERVATION – HISTORIC PROPERTIES, Section 106</b>	
36 CFR 800	<p><b>Protection of Historic Properties</b></p> <p><b>Sec. 800.1 Purposes.</b></p> <p>(a) Purposes of the section 106 process. Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Council [Advisory Council on Historic Preservation] a reasonable opportunity to comment on such undertakings. The procedures in this part define how federal agencies meet these statutory responsibilities. The section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project</p>





Source	Citation
	<p>planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.</p> <p><b>Sec. 800.2 Participants in the Section 106 process.</b></p> <p>(4) Consultation. The agency official shall involve the consulting parties described in paragraph (c) of this section in findings and determinations made during the section 106 process.</p> <p>(5) Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.</p> <p>(d) The public.</p> <p>(1) Nature of involvement. The views of the public are essential to informed federal decision-making in the section 106 process. The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the federal involvement to the undertaking.</p> <p>(2) Providing notice and information. The agency official must, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an undertaking and its effects on historic properties and seek public comment and input. Members of the public may also provide views on their own initiative for the agency official to consider in decision-making.</p> <p>(3) Use of agency procedures. The agency official may use the agency's procedures for public involvement under the National Environmental Policy Act or other program requirements in lieu of public involvement requirements in subpart B of this part, if they provide adequate opportunities for public involvement consistent with this subpart.</p> <p><b>Sec. 800.4 Identification of historic properties</b> the agency official shall</p> <p>(3) Seek information, as appropriate, from consulting parties, and other individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area, and identify issues relating to the undertaking's potential effects on historic properties;</p> <p><b>Sec. 800.5 Assessment of adverse effects</b> The agency official shall consider any views concerning such effects which have been provided by consulting parties and the public.</p> <p>(c) Consulting party review. If the agency official proposes a finding of no adverse effect, the agency official shall notify all consulting parties of the finding and provide them with the documentation specified in Sec. 800.11(e).</p> <p><b>Sec. 800.6 Resolution of adverse effects</b> The agency official shall consult with the SHPO/THPO and other consulting parties, including Indian Tribes and Native Hawaiian organizations, to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties.</p>



Source	Citation
<b>CLEAN WATER ACT – U.S. ARMY CORPS OF ENGINEERS</b>	
33 USC	<p>Navigation and Navigable Waters Water Pollution Prevention and Control – Permits and Licenses</p> <p><b>SECTION 401 OF THE CLEAN WATER ACT</b> SEC. 1341. <b>CERTIFICATION</b> (a)(1) Any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the state in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 1311, 1312, 1313, 1316, and 1317 of this title. Such state or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications.</p> <p><b>Section 404 of the Clean Water Act</b> Sec. 1344. A. The Secretary [of the Army, acting through the Chief of Engineers] may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Not later than the fifteenth day after the date an applicant submits all the information required to complete an application for a permit under this subsection, the Secretary shall publish the notice required by this subsection. H. 1.c. To assure that the public, and any other state the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application.</p>
42 USC 2000(d) to (d)(1) Civil Rights Act of 1964	<p>Title VI – <b>Non-Discrimination in Federally Assisted Programs</b> <u>General</u> This title declares it to be the policy of the United States that discrimination on the ground of race, color, or national origin shall not occur in connection with programs and activities receiving federal financial assistance and authorizes and directs the appropriate federal departments and agencies to take action to carry out this policy.</p> <p><u>Section 601</u> -- no person in the United States shall be excluded from participation in or otherwise discriminated against on the ground of race, color, or national origin under any program or activity receiving federal financial assistance.</p>



## ATTACHMENT 2: HISTORY OF PUBLIC INVOLVEMENT

The National Environmental Policy Act (NEPA) of 1969, FHWA environmental regulations (23 CFR 771) and Council on Environmental Quality implementing regulations outline requirements for public input during the project development process. These regulations include publishing notices and providing the opportunity for public hearings to obtain input about transportation improvements. The regulations and how they apply to each of the different NEPA processes is outlined below.

The federal Americans with Disabilities Act (ADA) encourages the involvement of people with disabilities in the development and improvement of transportation and para-transit plans and services. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. This includes providing accommodations for persons with disabilities for all public involvement activities, including access to meetings, as well as effectively communicating with people who have hearing, vision, or speech disabilities.

The Inter-modal Surface Transportation Efficiency Act of 1991 (ISTEA) and its 1998 successor, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), emphasize public involvement in the transportation planning and programming process. This legislation calls for early and continuing opportunities for the public to be involved in the identification of social, economic and environmental impacts, as well as impacts associated with the relocation of individuals, groups or institutions. TEA-21 requires states and Metropolitan Planning Organizations (MPOs) to involve constituents. Federal legislation also requires public involvement in developing and amending metropolitan and rural long-range transportation plans, Transportation Improvement Programs (TIPs), the Statewide Long-Range Transportation Plan (LRTP), the State Transportation Improvement Program (STIP), and project development.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) enacted August 10, 2005, includes new requirements for public involvement in the NEPA process for Environmental Impact Statements and for other environmental processes as appropriate.

A Presidential Executive Order on Environmental Justice (EO 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), issued on February 11, 1994, also focuses federal agencies' attention on reaching out to certain segments of the community. This Executive Order requires each federal agency to achieve environmental



justice by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

CDOT must comply with United States Department of Transportation's Final Order to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2[a]) and FHWA's Actions to Address Environmental Justice in Minority Populations and Low-income Populations (DOT Order 6640.23[a]). DOT Order 5610.2(a) specifically requires that "procedures shall be established, or expanded, as necessary, to provide meaningful opportunities for public involvement by members of minority and low-income populations during the planning, and development of programs, policies, and activities" even though concerns have been addressed through many federal mandates including Title VI of the Civil Rights Act of 1964 and the NEPA. DOT Order 6640.23(a) requires FHWA to implement the principles of DOT Order 5610.2(a) and EO 12898 by incorporating environmental justice principles in all FHWA programs, policies and activities. On December 16, 2011, DOT also published a new document entitled *Guidance on Environmental Justice and NEPA*.

These laws and orders serve to heighten the awareness and concern for identifying and addressing social and community impacts. Identifying community impacts is not a completely objective process because differing values and perspectives must be taken into consideration. These can only be discerned by active listening and respectful involvement by all parties.



## ATTACHMENT 3: ADDITIONAL PUBLIC INVOLVEMENT RESOURCES

FHWA Public Involvement Website

[www.fhwa.dot.gov/environment/pubinv2.htm](http://www.fhwa.dot.gov/environment/pubinv2.htm)

International Association for Public Participation Website

[www.iap2.org](http://www.iap2.org)

IAP2 Public Participation Toolkit (different public involvement techniques) Website

[http://www.iap2.org/associations/4748/files/06Dec\\_Toolbox.pdf](http://www.iap2.org/associations/4748/files/06Dec_Toolbox.pdf)

U.S. EPA Public Involvement Website

[www.epa.gov/publicinvolvement/](http://www.epa.gov/publicinvolvement/)

CEQ Collaboration in NEPA: A Handbook for NEPA Practitioners Website

[http://ceq.hss.doe.gov/ntf/Collaboration\\_in\\_NEPA\\_Oct\\_2007.pdf](http://ceq.hss.doe.gov/ntf/Collaboration_in_NEPA_Oct_2007.pdf)

Air Quality Planning for Transportation Officials, Interagency Consultation and Public Involvement Website

<http://www.fhwa.dot.gov/environment/agplan/agplan13.htm>

The Transportation Research Board's Committee on Public Involvement in Transportation has a special issue on Public Involvement Website

<http://www.trb.org/Main/Public/Blurbs/161053.aspx>

FHWA's A Citizen's Guide to Transportation Decision-making Pub. No. FHWA-EP-01-013 Website

<http://www.fhwa.dot.gov/planning/citizen/index.htm>

FHWA/FDOT Community Impact Assessment Website

<http://www.ciatrans.net/>

FHWA's Community Impact Assessment: A Quick Reference for Transportation Website

[http://www.fhwa.dot.gov/environment/community\\_impact\\_assessment/index.cfm](http://www.fhwa.dot.gov/environment/community_impact_assessment/index.cfm)

FHWA "Community Impact Mitigation: Case Studies" Website

[http://www.fhwa.dot.gov/environment/cia/about\\_cia/community\\_impact\\_mitigation/](http://www.fhwa.dot.gov/environment/cia/about_cia/community_impact_mitigation/)

FHWA Environmental Justice Website

<http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm>



TRB's National Cooperative Highway Research Program (NCHRP) 532 Report, "Effective Methods for Environmental Justice Assessment" is designed to enhance understanding and to facilitate consideration and incorporation of environmental justice into all elements of the transportation planning process, from long-range transportation systems planning through priority programming, project development, and policy decisions.

<http://www.trb.org/Main/Public/Blurbs/152430.aspx>

International Association for Impact Assessment Website

<http://www.iaia.org/>

National Civic League, Publications Website

[http://www.ncl.org/index.php?option=com\\_content&view=article&id=147&Itemid=208](http://www.ncl.org/index.php?option=com_content&view=article&id=147&Itemid=208)

Transportation Planning Capacity Building Website

<http://www.planning.dot.gov/>

US Census Bureau FactFinder Website

<http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>



## ATTACHMENT 4: STEPS FOR DEVELOPING A PROJECT PUBLIC INVOLVEMENT PLAN<sup>1</sup>

### Step 1. Identify the key issues or decisions that are relevant to the project

**Activity 1:** Identify the key process issues or decisions applicable to the project. This requires that some level of project scoping has been accomplished to identify the NEPA document that will be prepared (CE, EA, or EIS). The process can be broken down into key decisions that are critical to the successful completion of the NEPA process. For example: Purpose and Need, Screening Criteria, Alternatives Analysis, and Preferred Alternative Selection.

**Activity 2:** Identify the legal requirements that are applicable to the project. Each legal requirement should be further broken down into the key component issues or decisions that will affect the final decision on the permit or other legal requirement (i.e., satisfying Section 404 permit requirements).

**Activity 3:** Identify the key non-legal issues or concerns that may have a significant impact on the project development process. This includes those key community issues or other resource issues on which decisions will have to be made as part of the project development process. Each issue should be limited to issues or decision points relevant to the overall project decision.

### Step 2. Gain internal commitment

**Activity 1:** Be prepared to explain who has final decision-making authority for each of the key decisions points in the process. Does the final decision-maker have any expectations for the public involvement process? What is the final decision-maker's previous experience with public involvement processes? How does the final decision-maker anticipate being involved with the public involvement process and the project as a whole? How well does the decision-makers interact with the various stakeholders? What decisions are the final decision-makers likely to need assistance to make?

**Activity 2:** Review prior public involvement strategies and stakeholder involvement programs to determine what will be the most effective way of doing public involvement. What tools and techniques is the Project team familiar with using? How have public involvement programs with stakeholders been conducted in the past? What processes, tools, and

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<sup>1</sup> Based on the International Association for Public Participation: Planning for Effective Public Participation; [www.iap2.org](http://www.iap2.org)





techniques have worked effectively with which stakeholders? Where have they not worked well? Examine the pros and cons of the various public involvement techniques that are being contemplated. Are there differing opinions as to how the public involvement process should be run? What is the base cause of this difference?

**Activity 3:** Review key issues and concerns developed during Step 1 to assure decision-makers are in agreement and that any additional issues and concerns have been identified.

**Activity 4:** Begin identifying key stakeholders and their relationships to the key decision points in the process. How do the various issues and decisions rate in terms of importance to the decision-making process and also to the various stakeholders? What is the agency's, the Region's and the Project team's previous experience with the key stakeholders? Are any of the decisions likely to be controversial? How much? How important are these decisions to the overall decision-making process?

**Activity 5:** Determine CDOT's expectations on the level of public involvement as it relates to the various issues and decisions that will be made as part of the project. Are there differences of opinion? What degree of flexibility in changing the level of stakeholder involvement is the agency comfortable making as the process progresses? Under what circumstances are the decision-makers less inclined to change the level of public involvement established? Why?

### Step 3. Learn from the stakeholders

**Activity 1:** Understand that the various stakeholders will perceive the issues surrounding the project and how decisions are to be made differently. This is the project team's first opportunity to start developing constructive relationships with the key stakeholders. Use key stakeholders to help identify other stakeholders who may have been overlooked.

**Activity 2:** Develop a comprehensive list of stakeholders. Do this by building upon the list of key stakeholders already developed to determine the stakeholders for the project. Determine what stakeholders may be particularly hard to involve in the public involvement process.

**Activity 3:** Correlate the various stakeholders to the various issues and decisions to be made as the project develops. From the perspective of the project team, how much impact will the issue/decision have on the overall project decision-making process? Then, do the same from the perspective of the different stakeholders. Are there differences between the perspective of the project team and the other stakeholders? Where do stakeholders have issues in common? Where do they differ? What are the potential alliances



between stakeholders that may either support or oppose the project? Why? What level of power does a stakeholder have in relation to a given decision? How will this potentially affect the planned public involvement process?

**Activity 4:** Involve the stakeholders in refining the statement of the issues to be addressed or the decisions to be made. This is done to assure that all parties are discussing the same issues and working on the same decisions. It is not uncommon to have stakeholders refine or change the decisions/issues in terms which may be different from those intended by the project team. Make sure that all terms are being read with a common definition. While this may seem like an unnecessary step, it can help avoid problems arising later where different interpretations lead stakeholders to different expectations.

#### **Step 4. Select the level of involvement**

**Activity 1:** Review the internal expectations for the level of public involvement in light of the information gained from the stakeholders. What additional issues and decisions were identified? Who are the final decision-makers for any additional issues/decisions? Where is there disagreement in terms of the appropriate level of public involvement on an issue/decision? Select the level of public involvement that will be appropriate for the issue/decision and stakeholder. Craft the commitments being made to the stakeholders and be sure that the project has the resources (in time, staff, and funding) to keep the commitment.

#### **Step 5. Identify how success will be evaluated**

**Activity 1:** Define the factors that will be used to determine a successful public involvement program. What process requirements must be met? What type and levels of impact on the decision-making process by stakeholders does the project want to demonstrate? What is the ultimate outcome of the process that should be demonstrated?

**Activity 2:** Establish indicators that will measure success or failure of your program. Indicators are tied directly to the level of involvement and will influence the types of tools and techniques used in the public involvement process. For example, if the factor being evaluated is the project's ability to inform the stakeholders about the effects of the proposed project, an indicator might be the portion of stakeholders who indicated they understood the effects. If the factor being evaluated is the agreement of the participating agencies on the project scope, indicators might include: establishment of a clear purpose and need, signed by the participating agencies.

**Activity 3:** Define targets for each of the indicators being used. For each indicator, a successful target should be established. This could be a





percentage (percent of community members surveyed who understood the project impacts), specific actions (purpose and need statement is prominent on the project website and all printed materials), or numeric (number of people attending public scoping meeting). Targets will vary from project to project and must be achievable. Targets will define for a project when and how their public involvement program is complete and successful. If targets are not reached the project may need to consider if additional or different public involvement activities are necessary.

#### **Step 6. Define the decision process and participant objectives**

**Activity 1:** If a decision-making process related to an issue already exists or is required by legislation or regulations, document the process. Where a decision-making process has not already been established, work with the project management team to develop and document a process for addressing key issues for the project. Make the decision-making process clear and easily understood by internal and external stakeholders.

**Activity 2:** Set public involvement objectives for each step in the decision process. Each step in a decision-making process is a chance to either gain or lose stakeholder trust. Develop public involvement objectives that are appropriate and work towards developing better relationships with stakeholders based upon the public involvement level that has been selected for that decision, and the promises made to the various stakeholders.

#### **Step 7. Develop the project public involvement plan**

**Activity 1:** Develop the format for the public involvement plan. The exact format of the public involvement plan will vary depending on the complexity of the project and the various public involvement goals and objectives. The plan format may range from a brief outline, to a highly detailed manual. The plan format must provide adequate information to allow internal and external stakeholders to identify the activities, outcomes, and evaluation expectations for the public involvement processes.

**Activity 2:** Identify and integrate existing public involvement activities into the baseline of the plan. What activities have already occurred? What promises have been made to the stakeholders? How were those promises implemented? What other projects/programs are working with the same stakeholders?

**Activity 3:** Identify the techniques that will be used during the public involvement process. Review the promises being made to the stakeholders and the intended level of public involvement on the decisions. Review different public involvement techniques and choose techniques that are





appropriate to the public involvement level. In selecting techniques, be conscious of the potential benefits and drawbacks of the techniques selected. Choose techniques that are possible or can be modified to be successful given fiscal and time constraints for the project.

**Activity 4:** Identify the schedule and resources necessary for the public involvement plan to be successful. How much time is necessary for each of the techniques being used? What fiscal resources are available? Who has what roles and responsibilities? What additional resources may be necessary to engage stakeholders at the desired level?



## ATTACHMENT 5: PUBLIC INVOLVEMENT PLAN DEVELOPMENT WORKSHEETS

### *Stakeholder Information*

Group Name	Geographic Frame of Reference <sup>1</sup>	Contact Name	Contact Address	Contact Phone Number	Contact e-mail	Stakeholder Notes <sup>2</sup>	Contact Notes

- L = Local  
 R = Regional  
 S = Statewide  
 N = National  
 Add Further Definition (for example: Main Street Park boundaries)
- Notes on role of stakeholder group as well as past interactions and other information known about the stakeholder such as relationships with other stakeholders



*Stakeholder and Issue Assessment Worksheet*

Issue	CDOT Evaluation of Level of Impact on Project: N = None L = Low M = Moderate H = High U = Unknown	Stakeholder	Stakeholder Level of Concern N = None L = Low M = Moderate H = High U = Unknown
1.			
2.			
3.			



**Internal Expectations Worksheet**  
 (Complete for each issue for project)

Assessment Questions	Very Low	Low	Moderate	High	Very High	Notes
1. What is the minimum legally required level of public involvement?						
2. To what extent does internal staff believe that the public could help improve the outcome of this issue?						
3. At what level does internal staff perceive public interest in this issue as it relates to this issue?						
4. What is the potential for the public to influence the decision-making process for this issue?						
5. What level of media interest is anticipated on the issue?						
6. What level of media interest is anticipated on the project?						
7. What level of resources are likely to be available to support the public involvement process? (time, staff, funds)						
8. What is the likelihood that decision-makers will give full consideration to input received from the public?						
9. What is the anticipated level of public controversy?						
<b>Count number of checks in each column</b>						
<b>Multiply number of checks by weight</b>	x1	x2	x3	x4	x5	
<b>Enter Column Score</b>						
<b>Sum columns, enter total</b>						
<b>Divide total score by the number of Questions</b>	/9					
<b>Average Score</b>						

Average Score relationship with level of Public Involvement Expectations:

- 1-2: Very low to low: Inform
- 2-3: Low to Moderate: Recommend at least Consult
- 3-4: Moderate to High: Most likely Involve level
- 4-5: High to Very High: At least involve, identify opportunities to Collaborate or Empower

Note: Some stakeholders may require different levels of involvement depending on authority such as permitting agencies.





***Involvement Expectations Worksheet  
(Complete for each issue for project)***

Assessment Questions	Very Low	Low	Moderate	High	Very High	Notes
1. What is the probable level of difficulty in addressing the issue/concern?						
2. What is the potential for public outrage related to the issue/concern?						
3. How important are the potential impacts of the issue/concern to the stakeholders?						
4. How much do major stakeholders care about the issue/concern to be addressed and the decision to be made?						
5. What degree of involvement does the public appear to want?						
<b>Count number of checks in each column</b>						
<b>Multiply number of checks by weight</b>	x1	x2	x3	x4	x5	
<b>Enter Column Score</b>						
<b>Sum columns, enter total</b>						
<b>Divide total score by the number of Questions</b>	/5					
<b>Average Score</b>						

Average Score relationship with level of Public Involvement Expectations:

1-2: Very low to low: Inform

2-3: Low to Moderate: Recommend at least Consult

3-4: Moderate to High: Most likely Involve level

4-5: High to Very High: At least involve, identify opportunities to Collaborate or Empower

Note: Some stakeholders may require different levels of involvement depending on authority such as permitting agencies.





*Tool/Technique Evaluation Worksheet*

Issue(s): \_\_\_\_\_

Stakeholders related to issue: \_\_\_\_\_

Level of Public Involvement Anticipated: \_\_\_\_\_

Promise made to Public: \_\_\_\_\_

Objective(s) for this tool/technique: \_\_\_\_\_

Evaluation Criteria	Tool/ Technique A	Tool/ Technique B	Tool/ Technique C
1. How will it meet the objective(s)?			
2. What will it cost and do we have adequate resources for implementation (time, money, staff)?			
3. How effective is this technique for reaching the right audience?			
4. Do we have access to the tools and personnel needed to implement this technique successfully or will we need additional support?			
5. Do we have access to the expertise to implement this technique successfully or do we need outside support?			
6. Is there sufficient time to successfully implement this technique?			
7. Does the technique have a proven track record of success in similar situations?			
8. Does the technique coincide with what you have learned about the public about how they want to be involved?			
9. Will it meet the legal requirements?			
10. Are there special circumstances that may affect the use of this technique?			
11. Can you get internal support for these techniques?			
12. Does the public have the ability to take advantage of this technique or do barriers to success exist?			



*Roles and Responsibilities Worksheet*

Role	Specific Individuals in these Roles, include Position	Responsibilities for Each Individual for this Role
1. Who are the ultimate decision-makers?		
2. Who has the overall management responsibility for public involvement?		
3. Who are the primary public involvement staff?		
4. Who are key technical staff for this project?		
5. Who are the key managers for this decision?		
6. Which individuals control important resources?		
7. What individuals outside of the decision process may be important to the credibility of the public involvement process?		
8. What internal resources with special expertise will be important to the process, such as graphics support?		
9. What outside resources with special expertise will be important to the process, such as independent technical experts?		





## ATTACHMENT 6: ADDITIONAL PUBLIC INVOLVEMENT TECHNIQUES/EXAMPLES

### **Title: I-25 Pueblo Ice Cream Social**

**Issue:** The project team was having difficulty getting community input on the trade-offs between the high noise walls and the noise reduction.

**Tool:** The project team held an ice cream social within the affected community. Large poles, representing the different sizes of the noise walls were erected so that they would be visible as people arrived. Attendees were able to assess for themselves how the different heights would impact their views and project team members working at the social captured participant comments and opinions.

### **Title: I-25 Parks Advisory Committee**

**Issue:** The project team was having a difficult time identifying impacts and mitigation options for the Mineral Palace Park.

**Tool:** The project team developed a stakeholder committee that included local residents and members of the park management to identify and evaluate different impacts to Mineral Palace Park. The committee started with some basic examples of potential impacts and mitigation to start dialog. The committee then used an iterative process to identify how impacts could be minimized and developed appropriate mitigation activities.

### **Title: I-70B West Spanish Language Public Meeting**

**Issue:** The project area included a high number of Spanish speaking residents who either did not speak English or were more comfortable communicating in Spanish.

**Tool:** A Spanish language public meeting was held within the community affected by the project. All materials and discussion were in Spanish. Comments were collected and used in the same fashion as comments from other public meetings for the project.

### **Title: I-70 East Community Outreach Program**

**Issue:** Communities in the project area were heavily impacted by the original I-70 project. There were high levels of community distrust in government agencies and the DOT created problems with effective public involvement.



**Tool:** The project team established a nested program for public involvement that started with neighborhood canvassing aimed at direct person-to-person communication with each residence in the affected communities to develop a personal relationship with individuals in the communities. Canvassers received training on how to effectively communicate with residents as well as local customs and etiquette.

Residents were then asked to host block parties where information about the project could be shared with a group of residents. The host was responsible for providing a location while the project paid for all other items.

Neighborhood meetings took place that brought together residents at a larger scale. Meetings were held in times and locations that worked with non-traditional work schedules and included food and day-care facilities to encourage involvement.

Corridor meetings covered several different neighborhoods.

Public comments were accepted at all levels.

**Title: SH 145 Pullout, Agency Coordination**

**Issue:** The project team was having a difficult time identifying issues and concerns of the Bureau of Land Management (BLM) related to paving of a pullout area

**Tool:** A site visit with the BLM and project team to explain the project occurred. During that site visit, the team reviewed construction activities and identified issues that the BLM may have.



# ATTACHMENT 7: SAMPLE COMMENT FORM AND NEWSPAPER NOTICE

## *Sample Comment Form*

Project Name: \_\_\_\_\_  
 Public Hearing: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Time: \_\_\_\_\_

### COMMENT SHEET

I have the following comments, questions, or concerns about this project:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Please use the back of this comment sheet for additional comments.

#### Contact Information

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Leave this comment sheet tonight, or mail it to or drop it off at the address shown on the other side no later than Date. You may also fax your comments to (###) ###-### or e-mail them to \*\*\*\*@dot.state.co.us. Thank you.





*Sample Newspaper Notice*

South Broadway NEPA Process

## *Public Meeting #3*

South Broadway NEPA Process

**Tuesday, June 27, 2006**  
 5:00 PM to 7:30 PM  
 Platt Park Senior Center  
 1500 S. Grant Street (at Florida)

**Review Transportation  
 Alternatives for  
 South Broadway Corridor**

The City and County of Denver working with the community Consensus Committee, has identified and evaluated several transportation alternatives that address current and future travel demand and respond to transportation-related community interests in the South Broadway corridor. The study area includes the Cherokee and Lionstone redevelopment properties.

This Public Meeting is organized to provide information about these alternatives, and to receive and listen to public comment on them. As part of the process of identifying and evaluating alternatives, the City wants to hear from you. The meeting agenda includes:

5:00 PM Displays of project information  
 5:30 PM Presentation of alternatives and evaluation process  
 6:00 PM Public comment

- ✓ Do the alternatives meet your travel needs?
- ✓ Do the alternatives accommodate neighborhood interests?
- ✓ Do you have other ideas to be studied?

7:30 PM Wrap-up

**Questions?**

Call Jason Longsdorf, City of Denver at 720-865-3162  
 or Larry Gibson, Carter & Burgess at 303-222-5837

More information can be found on the project website:  
[www.denvergov.org/broadwaynepa/](http://www.denvergov.org/broadwaynepa/)



**COLORADO**  
 Department of  
 Transportation



## ATTACHMENT 8: GUIDELINES FOR CONDUCTING OPEN FORUM PUBLIC MEETINGS AND HEARINGS

### *Format/Agenda*

The open forum is a public meeting and hearing format in which the meeting is conducted like an "open house." Under normal circumstances, the hearing or meeting is not "called to order"; rather, the event begins at a predetermined time and citizens have the opportunity to review a variety of materials at their leisure, ask questions of experts and officials, discuss the issues with each other, and submit formal comments for the project record, if they so desire.

The sign-in lists compiled at public meetings/hearings may be made available upon request to outside parties in accordance with the Colorado Open Records Act (CRS 24-72-101, et seq.). This statement should be included at the top of the sign-in list along with a notice that the addresses and phone numbers will be removed and only the names and city of residence will be provided to others.

The event should be held in a large room such as a community center or school cafeteria where there is plenty of space for displays and tables and for people to move about freely. In selecting a facility for public meetings and hearings, ADA requirements must be met and special needs of stakeholders should be anticipated. People should be greeted as they enter the meeting room and given an information sheet showing how the forum is organized and where information can be found.

Basic displays should be placed at several stations around the room. These should focus on various aspects of the project for which the meeting is being held. For example, at a meeting to obtain public input on the Draft Environmental Impact Statement, copies should be made available at several locations. Other stations might highlight major design features, give right-of-way information, or feature information about how the impacts to a park or wetland area will be mitigated.

The meeting should last several hours and should provide opportunity for participation from people on different work schedules. For instance, a meeting might include both a mid-day session (from 11:00 – 2:00) and an evening session (4:00 – 7:00). When determining appropriate dates, project teams must be aware of and take into account other activities that may interfere with attendance.



## *Information and Handouts*

At a minimum, each person should receive a meeting information sheet describing the purpose of the meeting and explaining where and how to obtain information and make comments (a room diagram might be helpful), and a summary sheet giving the names of the applicable transportation agencies and decision-making entities and their addresses and telephone numbers. All other information required by federal laws and regulations should be presented or included in handouts. All information to be given out should be provided in other languages as appropriate.

## *Citizen Comments*

Those attending should have ample opportunity to discuss their concerns informally with agency officials and decision-makers and also be able to make formal comments. The meeting format should be designed to encourage an open exchange of information between the project development staff (i.e., CDOT and FHWA personnel, consultants hired to prepare the environmental studies and documentation, etc.) and the people who attend the meeting. Agency officials and staff should only answer questions for which they have the knowledge or technical expertise to be fully informed. When other questions arise outside these areas, the person interested in these issues should be escorted or directed to a staff member or agency official who can provide the correct information. The key to a successful meeting is to give citizens the feeling their concerns have been heard and their questions have been addressed honestly - even if the answer is "we don't know for sure." This open exchange can be much more effective in achieving good relations and developing trust with the public than is a sophisticated multi-media presentation facilitated by polished speakers. Therefore, it is extremely important that officials and staff members make themselves available, act like hosts and hostesses, and not cluster together, away from the public.

Comment sheets should be available in several locations, and boxes, marked for receipt of comments, should be provided at the exit and two or three other places in the room. In addition, individuals should be given an address and a date by which comments must be received. At public hearings, citizens may be given the opportunity to make oral comments for the record. If so, facilities must be available to record comments verbatim. A transcript of these comments must be made, and these comments must be included in and addressed in the project record. Translators, when necessary, should be provided so that everyone is able to be involved and provide comments.