




Module 7: Public Involvement

- 1 Summarize the regulatory purpose of public and agency involvement
- 2 Recall regulatory requirements for public and agency involvement during the environmental review process
- 3 List the items that should be considered when developing a Public Involvement Plan
- 4 Describe the public involvement requirements according to the Environmental Procedures Manual for public and agency involvement associated with each Class of Action
- 5 Discuss the difference between a public meeting, an open house, and a public hearing
- 6 Describe how the public outreach process is documented

 Length of training module: Approximately 30 minutes.



The topic of Public Involvement is part of a course covering the requirements for preparing and processing environmental documentation under the NEPA Assignment Program. Keep in mind that the information presented here is intended to be used in conjunction with the *Alaska Department of Transportation and Public Facilities Environmental Procedures Manual*, which serves as a reference and the source material for this training.

Module 7 looks at how the public is involved in the NEPA process.

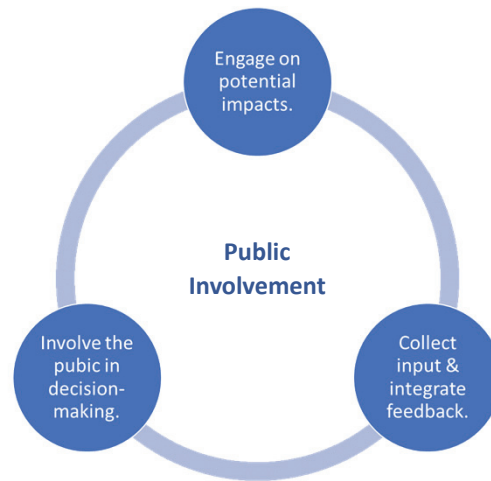
By the end of this module, you should be able to:

- Summarize the regulatory purpose of public and agency involvement.
- Recall regulatory requirements for public and agency involvement during the environmental review process.
- List the items that should be considered when developing a Public Involvement Plan (PIP).
- Describe the requirements according to the Environmental Procedures Manual for public and agency involvement associated with each Class of Action.
- Discuss the difference between a public meeting, an open house, and a public hearing.
- Describe how the public outreach process is documented.

Let's begin by discussing the regulatory purpose of public involvement on the next slide.



Regulatory Purpose of Public Involvement



Public and agency outreach is a legal requirement under NEPA and many other laws and regulations. The regulatory purpose of public and agency involvement is to:

- Engage with agencies and the interested public on potential environmental impacts of major actions;
- Collect input and integrate feedback in decision-making; and
- Involve the public and agencies in the decision-making process.

Doing so gives the public and agencies an opportunity to influence transportation decisions in a manner that reflects community values leading to better decision-making.



CEQ and FHWA Requirements for Public Involvement

- Provide early and continuing opportunities for public involvement in the NEPA process from scoping through preparation of the final EIS
- Identify lead and cooperating agencies
- Make EISs available to the public for review and respond to comments received
- Provide reasonable public notice of public hearings, meetings, and availability of environmental documents to those who may be interested or affected
- Hold public hearings or public meetings when appropriate and in accordance with agency requirements
- Explain information related to project purpose and need, scope, expected impacts, the relocation assistance and right-of-way acquisition process, and procedures for making oral and written public comments at a public hearing
- Solicit information from the public
- Ensure public availability of environmental documents, the comments received, and any underlying documents pursuant to the Freedom of Information Act (FOIA)
- Comply with other public and agency involvement requirements under the NEPA umbrella



[Alaska Highway Preconstruction Manual Chapter 5](#)



NEPA mandates that federal agencies encourage and facilitate public involvement in decisions that affect the quality of the human environment. By making information available to public officials and citizens before decisions are made, the NEPA process aims to improve the decision-making process by fostering a better understanding of the environmental consequences of proposed federal actions.

The Council on Environmental Quality (CEQ) regulations for implementing NEPA, found at 40 CFR Parts 1500-1508, establish procedures for preparing environmental documents and requirements for administering the NEPA process, including the process for inviting comments, defining agency roles and responsibilities, and addressing interagency disputes. This slide lists key CEQ and FHWA requirements for public involvement in the NEPA process.

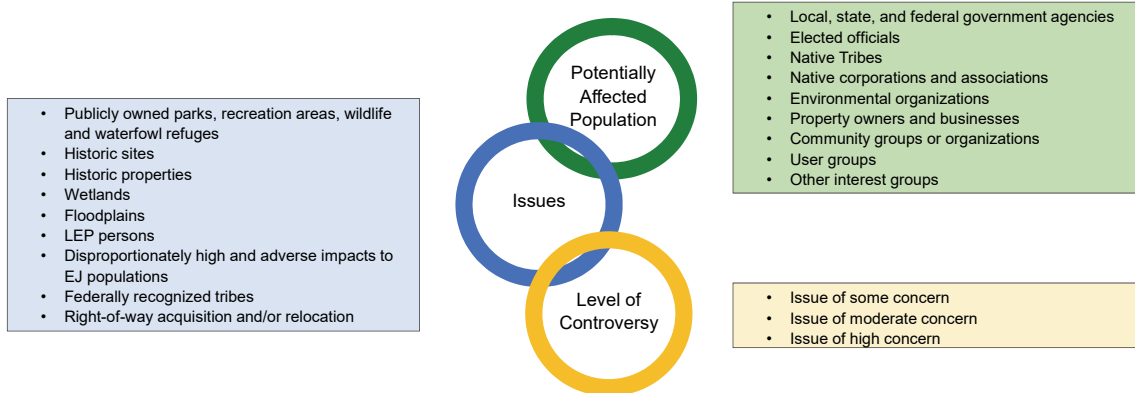
DOT&PF's Alaska Highway Preconstruction Manual Chapter 5 includes Federal Highway Administration-approved public involvement procedures and clearly defined minimum requirements for public and agency involvement in the preparation of an EA or EIS. Public and agency involvement in the preparation of a CE is commensurate with a project's type, complexity, and potentially affected environmental resources.



To learn more about CEQ and FHWA Requirements for Public Involvement, view the Alaska Highway Preconstruction Manual Chapter 5 online at <http://www.dot.state.ak.us/stwddes/dcsprecon/assets/pdf/preconhwy/chapters/chapter5.pdf>.



Public Involvement/Coordination Plan



The Alaska Highway Preconstruction Manual establishes the Public Involvement Plan requirements for each project. When developing a Public Involvement Plan, consider the potentially affected population, the overarching issues, and the expected level of public controversy.

When considering the project area and proposed action, a list of potentially affected stakeholders should be developed. Project stakeholders include any population who might have an interest in the project or be affected by development of the project. Groups to consider include:

- Local, state, and federal government agencies
- Elected officials
- Native Tribes
- Native corporations and associations
- Environmental organizations
- Property owners and businesses
- Community groups or organizations
- User groups
- Other interest groups

You should also identify issues that may be important to the potentially affected population and relevant agencies. Additional public and/or agency outreach may be required if there are potential impacts to the following:

- Publicly owned parks, recreation areas, or wildlife and waterfowl refuges
- Historic sites
- Historic properties

- Wetlands
- Floodplains
- Limited-English-proficiency persons
- Disproportionately high and adverse impacts to environmental justice populations
- Federally recognized tribes
- Right-of-way acquisition and/or relocation

For each issue and potential stakeholder, DOT&PF also considers the level of interest or controversy by asking whether the issue is of some concern, of moderate concern, or of high concern. DOT&PF may wish to provide additional outreach opportunities for projects deemed to be of higher concern or those that affect a greater number of stakeholders. Assessing the potential level of controversy is helpful when determining the appropriate level of engagement.

The coordination plan for an EIS includes the appropriate elements of the Public Involvement Plan with the addition of an environmental review schedule. The schedule should be established after consultation with, and concurrence of, the participating agencies and made available to the public.

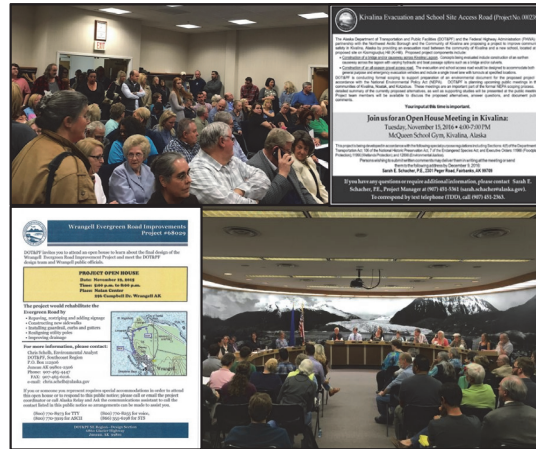
As described on the slides that follow, public involvement requirements vary based on the NEPA class of action assigned to a specific project.



Public Meetings, Hearings, and Open Houses



[23 CFR §771.111\(h\)](#)



A public meeting or open house is held by the project team to inform the public about a project, and to solicit project comments and concerns. Public meetings may be held during scoping or for circulation of an environmental decision document. Open houses have no set, formal agenda while public meetings are generally more structured and involve a presentation of the information and subsequent group discussion.

A public hearing is a formal meeting required by FHWA regulations to solicit feedback pertaining to a draft EA or draft EIS.

DOT&PF follows the public hearing requirements specified in Title 23 of the Code of Federal Regulations section 771.111(h), FHWA Environmental Impact Related Procedures.

Unless a project is classified as a Categorical Exclusion, there must be, at a minimum, an opportunity for a public hearing during the environmental process. A Notice of Opportunity for a Public Notice must be published twice; the first of which may be published jointly with the Notice of Availability. The procedure for requesting the public hearing should be explained, including the deadline for requests. The standard deadline is not more than 21 days after the publication of the first notice and not more than 14 days after the publication of the second notice.

If DOT&PF determines that a public hearing is required, the DOT&PF must issue a Notice of Public Hearing, which must be published twice: 30 to 40 days prior to the hearing and the again 5 to 12 days prior to the hearing. The draft environmental document (EA or EIS) must be available for a minimum of 15 days prior to the public hearing, and be available at the public hearing. The format of the hearing can be

either a formal hearing or an “open forum hearing.” A formal public hearing must include a court reporter who prepares a written transcript, and usually includes a hearing officer and panel to receive comments. An “open forum” hearing allows interested parties to comment orally before a court reporter without a public audience. Public hearings also must be preceded by public outreach activities. The comment period shall be at least 10 days after the public hearing.

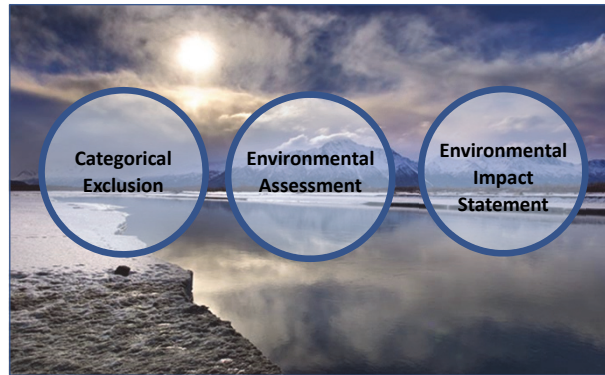
Whenever any public event is held, a memo that summarizes the event and the nature of public comments should be developed and added to the project file.



To learn more about public meetings, hearings, and open houses, visit 23 CFR §771.111(h) online at https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=1cba101c547f87d13dea2a7f38ca8ee0&ty=HTML&h=L&r=PART&n=23y1.0.1.8.43#se23.1.771_1111.



Public Involvement Practices & Requirements



The public engagement process directly relates to a project's scope, complexity, and potentially affected environmental resources, which is why the process differs for each class of action. Now we'll discuss each class of action to learn about the associated public involvement requirements and best practices.

Categorical Exclusion

Public involvement for a CE is typically less involved because these projects are usually minor in scope, less complex, and do not result in significant impacts to potentially affected environmental resources. DOT&PF may publish a Notice to Begin Engineering and Environmental Studies to inform the public and agencies of its intent to begin environmental review of a project, even though this Notice is not required for a CE. Prior to publication, the Notice to Begin Engineering and Environmental Studies will be reviewed by the REM. This notice may be published in a local newspaper, sent within a project mailer to appropriate project area zip codes, or published online on the State of Alaska Online Public Notices website.

A CE does not require a public hearing or the opportunity for a public hearing. However, DOT&PF may hold a public meeting or public hearing if a project may have an adverse effect on an environmental resource or the project is controversial.

Environmental Assessment

DOT&PF may inform the public and agencies that an EA is being conducted by publishing a Notice to Begin Engineering and Environmental Studies.

A public involvement plan should be developed for actions requiring an EA.

A public meeting or open house is held by the project team to inform the public about a project, and to solicit input. Public meetings may be held during scoping or

for circulation of an environmental decision document.

Scoping is the term DOT&PF uses to describe early engagement of agencies and the public in:

- Determining the scope of environmental issues to be addressed
- Identifying the alternatives and measures that may mitigate adverse environmental impacts, and
- Identifying other environmental requirements that should be fulfilled concurrently with the EA

Agencies with jurisdiction over resources potentially affected by the proposed project should be included in the scoping process. DOT&PF general practice for an EA is to identify any such agencies and to provide them with scoping letters to introduce the project and solicit input. For large projects, an initial scoping meeting may be held before letters are sent.

Once the draft EA is prepared based on input received during the scoping period, the Statewide Environmental Office—or SEO—will approve the EA for distribution and DOT&PF will publish a Notice of Availability. The Notice of Availability briefly describes the project scope and its impacts and specifies the locations where the EA can be reviewed. The notice should be made available in local newspapers, in the Alaska Online Public Notices, by mail or email to relevant stakeholders, and by other appropriate methods.

Projects requiring an EA project shall include, at a minimum, the opportunity for a public hearing during the project development process. If DOT&PF determines that a public hearing is required, the DOT&PF must follow the procedures for providing a public hearing, previously described.

Any public comments received during the comment period, and responses to those comments, must accompany the Final EA.

Public circulation is not required for the FONSI, but a Notice of Availability must be sent to involved agencies and state intergovernmental review contacts and be made available to the public upon request. While not specifically required, it is standard practice to publish the Notice of Availability in the same media outlets used to distribute the Draft EA.

Environmental Impact Statement

Public and agency involvement is an integral part of the EIS process. More formalized public involvement is required because EISs involve issues and impacts of greater magnitude than other classes of action. The enhanced public involvement requirements increase engagement with both agencies and the public to support early identification, and efficient resolution, of issues that could delay project approval.

As a first step, the region is required to notify the Statewide Environmental Office that the review process is being initiated by submitting a Notice of Intent, or NOI. This is official public notification that a federal agency is beginning the process to prepare an EIS. It includes the type of work, its termini, length, and general location, as well as the federal permits and approvals necessary for the proposed project. Under the NEPA Assignment, the REM sends the draft Notice of Intent to the Statewide Environmental Program Manager, who then submits it to FHWA for publication in the Federal Register once the NOI is finalized. The Notice of Intent is also made available to the local public through newspapers, in the Alaska Online Public Notices, by mail or email to relevant stakeholders, and by other appropriate methods.

Next, DOT&PF must invite any federal or non-federal agency that “may have an interest in the project” to become a participating agency in the project environmental review process. Participating agency invitation letters are required to be sent within 45 days of Notice of Intent publication and are to include a deadline, typically 30 days, for response. In addition, DOT&PF must develop a coordination plan. The coordination plan must be in place within 90 days of NOI publication.

Scoping is the next step in the process through which the public and participating agencies are given the opportunity to provide input regarding the scope, purpose of and need for the project, the significant issues to be analyzed, and the range of alternatives discussed in the EIS. The scoping process for an EIS is more formalized than for an EA. Public meetings are not required as part of the scoping process but are commonly held and serve as an excellent tool for sharing information with agencies and the public and for receiving input.

After the Draft EIS is prepared, DOT&PF must make it available to the public and solicit comments. A Notice of Availability is filed for publication in the Federal Register. The Notice of Availability will establish the public comment period for the EIS, which is typically between 45 and 60 days, unless the SEO establishes a different timeline with the agreement of all participating agencies.

One or more public hearings or opportunity(s) for a public hearing(s) must be held for projects on which an EIS is prepared. The Draft EIS must be available at the public hearing and for a minimum of 15 days in advance of a public hearing.

Lastly, the Final EIS is required to highlight all substantive comments received and include responses to those comments. The Notice of Availability of the Final EIS must be published in local newspapers, and the Final EIS made available for public review at the DOT&PF regional office and other public locations. Although not formally required, it is best practice to publish notice of a Record of Decision in the same manner.



Other Laws & Regulations That Require Public Involvement

- Section 4(f) of the Department of Transportation Act of 1966 (23 USC 138 and 49 USC 303)
- Section 106 of the National Historic Preservation Act (36 CFR Part 800)
- Floodplain Management (Executive Order 11988 and USDOT Order 5650.2)
- Protection of Wetlands (Executive Order 11990)
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income (USDOT Order 5610.2(a))
- Improving Access to Services for Persons with Limited English Proficiency (Executive Order 13166)
- Right-of-way acquisition and/or relocation (Uniform Act)
- Efficient Environmental Reviews for Project Decision-making (23 USC 139)
- Title 49 CFR, Subtitle A, Part 24, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)
- Title VI of the 1964 Civil Rights Act (42 USC 2000(d))
- Americans with Disabilities Act of 1990

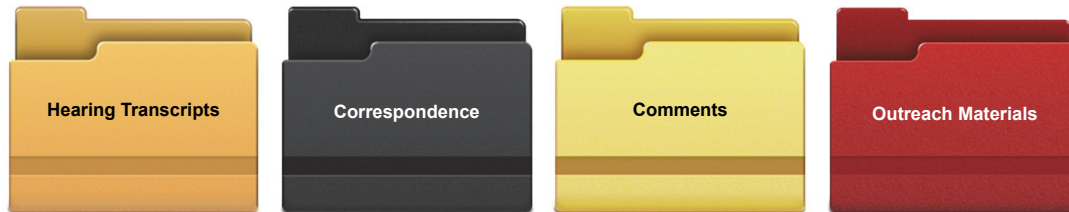


When considering a proposed action, there are other laws or regulations that are applicable the potentially affected population and relevant agencies and additional public involvement may be required. For example, according to Section 4(f) of the Department of Transportation Act of 1966, any action impacting publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites require additional public involvement. Prior to making a de minimis finding for historic sites, State Historic Preservation Officer and the Advisory Council on Historic Preservation must be consulted, and a public notice must be completed

This slide lists several other laws and regulations that may have separate public involvement requirements for an action being considered. Section 7.2.2 of the Environmental Procedures Manual contains more details for each of the regulations listed.



Documenting Public Involvement



The documentation and record keeping of public outreach is as important as the outreach itself. Because NEPA is a procedural law, public and agency outreach documentation should be preserved, as it may be critical information in the event of litigation.

A formal transcript of any public hearings must be prepared and included in the project files.

In addition, it is DOT&PF standard practice to prepare a Scoping Summary Report which provides a record of the scoping process and includes the significant issues to be addressed in the draft EIS, alternatives, and purpose and need.

The draft EIS must include copies of correspondence with agencies and the public. The draft EIS must also summarize the coordination process, including scoping, meetings, and the key input received from the public and agencies.

Standard DOT&PF practice also consists of preparing appendices that include complete records on public and agency requests for participation and comment, copies of all outreach materials prepared, certifications of publication for all public notices, and copies of public and agency comments received.

The Final EIS must summarize public involvement, discuss substantive comments received, and respond to all substantive comments.

All public involvement materials developed for the project; comments and responses; and correspondence with agencies and the public are to be placed appropriately in the project file.

The transcript of any public hearing or certification that a public hearing opportunity was offered when required should also be submitted to the Statewide Environmental Office along with copies of all written public comments.



Module Review



Module 7: What You've Learned...

- The regulatory purpose of public and agency involvement
- The regulatory requirements for public and agency involvement during the environmental review process
- Things to consider when developing a Public Involvement Plan
- The requirements according to the Environmental Procedures Manual for public and agency involvement associated with each Class of Action
- The difference between a public meeting, an open house and a public hearing
- The public outreach documentation process



This concludes Module 7 of DOT&PF's Environmental Procedures Manual Training Program, which discussed public involvement in the environmental review process.

We'll now take the module quiz to complete the requirements for this training course.