

Quick Reference Guide for Holding a NEPA Public Hearing

An integral component of the National Environmental Policy Act (NEPA) is public involvement. It is intertwined throughout the NEPA process to capture public input for proposed projects on topics such as needs, alternatives, impacts, and mitigation measures. This fact sheet was developed for MnDOT project managers and engagement staff to provide a summary of legal requirements to prepare for a NEPA public hearing.

When is a Public Hearing Required?

FHWA requires one or more public hearings, or the opportunity for hearing(s), to be held at a convenient time and place for a project receiving Federal-aid that meets any of the below criteria:¹

- 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
- has a significant social, economic, environmental or other effect
- FHWA determines that a public hearing is in the public interest



MnDOT's practice for holding in-person public hearings for NEPA documents is:²

Environmental Impact Statement (EIS) – A public hearing is held for all EISs.

Environmental Assessment (EA) – A public hearing is held for all EAs through two ways:

- **Hold a hearing** if (1) the project will meet at least one of the FHWA criteria, (2) FHWA or MnDOT determines a hearing is in the public interest, or (3) it is required by another agency.
- **Provide the opportunity for a hearing** if none of the above scenarios are met, MnDOT can request interest in holding a public hearing (see table on next page). Any response to the request requires that a hearing be held. Contact OES for assistance with this determination.

Categorical Exclusion – A public hearing is not held, however MnDOT will determine if a public meeting or other events will be held.

For Questions or More Information:

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Additional guidance on public engagement and commenting on NEPA documents is available at: [Transportation Project Development Process \(TPDP\)](#)

¹ 23 CFR §771.111 (h)(2)

² Additional public involvement activities may occur during the NEPA process such as public meetings and/or other engagement events.

What Steps Need to be Taken to Prepare for a Public Hearing?

Every public hearing must have a typewritten or audio-recorded transcript and a project website available for public review. There are three main legal components of preparing for a public hearing: distribute the draft NEPA document; publish the notice of availability; and issue a legal public hearing notice.

| | Draft EIS | Draft EA |
|---------------|---|---|
| Step 1 | Distribute draft NEPA document to recipients (see TPDP Distribution guidance) | Distribute draft NEPA document to recipients (see TPDP Distribution guidance) |
| Step 2 | Publish notice of availability in the <i>Federal Register</i> and <i>EQB Monitor</i> . The public hearing shall be no sooner than 15 days after the notice is published and at least 10 days before the end of 45-day comment period. | Publish notice of availability in the <i>EQB Monitor</i> . If a public hearing is being held within the 30-day comment period, reasonable notice shall be provided (e.g., same 15-day period used for a Draft EIS). If an opportunity for a public hearing is being offered, a reasonable amount of time shall be provided to receive responses, followed by reasonable notice prior to holding the hearing. |
| Step 3 | Issue a legal public hearing notice. The notice must include the date, time and location of the public hearing, among other information found in 23 CFR 771.111(h)(2)(iv). ³ | If a public hearing will be held, the legal public hearing notice must include the date, time and location of the public hearing, among other information found in 23 CFR 771.111(h)(2)(iv). ³ |

Electronic Media (Virtual) Public Hearings

A virtual public hearing may complement an in-person public hearing, but does not replace the in-person requirement under NEPA for FHWA projects. If a virtual public hearing is held in addition to an in-person public hearing, the notice should include that an individual could attend both the virtual and in-person public hearings. The same project information, staff availability and commenting opportunities are required for each public hearing. The requirement for a transcript applies to all public hearings, whether in-person or virtual.

Best Practices for Public Hearings

Know your audience – who lives, works and travels in the project area? Are there Environmental Justice populations? What are the barriers to engagement? How does the public access information?

Access – hold public hearings at a variety of times and locations; consider transit access and parking; provide enough time for information to be shared and comments received; offer materials in multiple languages based on project area, use “Plain Language”⁴, ensure compliance with Americans with Disabilities Act.

Multi-Platform Commenting – Provide a variety of ways to submit comments such as written comment cards, verbal comments, email, postal mail, and/or comments submitted through the project website.

Key Messaging – Make sure all of the required and valuable data developed during NEPA is shared in a manner that is easy to understand, both leading up to and during the public hearing.

³ The Minnesota Environmental Policy Act also requires issuing a press release to at least one newspaper of general circulation in the project area within five working days of distribution. As a best practice, additional locations and tools should be used for the public notice. See public engagement guidance on TPDP for examples.

⁴ Executive Order 14-07, Implementing Plain Language in the Executive Branch