



FDM 6-15-1 Introduction

December 20, 2013

A public hearing is a more formal event than a public involvement meeting and is typically required by law. The purpose of the public hearing process is to obtain public comment/testimony and to ensure that transportation decisions are consistent with the goals and objectives of federal, state, and local entities.

Public hearings provide a forum for gathering formal comment and testimony on the project's conformity to federal, state, and local plans, project purpose and need, alternative locations, design features, the potential social, economic and environmental effects related to each alternative, efforts to avoid impacts, and opportunities to minimize, mitigate, or compensate for potential avoidable impacts.

Public hearings or opportunities for public hearings for projects engineered by a local unit of government or their consultant are the responsibility of the local unit of government or their consultant. They are responsible for scheduling activities; including preparing and implementing the Public Involvement Plan, creating, publishing and distributing the legal public hearing notice and other notices, and preparing the public hearing exhibits and handout materials. They conduct the public hearing, obtain a verbatim transcript of the proceedings, and prepare the public hearing record. Copies of the public hearing record must be prepared and distributed as described in [FDM 6-15-45](#). The Region typically monitors the local unit of government or consultant as appropriate to assure their compliance with all state and federal requirements.

When public hearings for state highway projects or federal-aid local projects are conducted by other agencies, department policies and procedures described in the section must be followed.

FDM 6-15-5 Public Hearing Requirements

December 20, 2013

5.1 Actions Requiring a Public Hearing

Public hearings are required to be eligible for Federal-aid and are required under 23 USC 128 and 23 CFR 771. In addition, public hearings must be held for highway projects falling in the categories listed below.

1. Section 84.02 of the Wisconsin Statutes requires that due notice be given to localities concerned when changes or discontinuances in the State Trunk Highway System are anticipated. Whenever a change proposes to lay a highway on new location and the deviation from the existing location exceeds 2-1/2 miles, a public hearing in or near the Region affected is required prior to making the change. See [FDM 4-5-1](#) for a discussion of State Trunk Highway System changes.
2. A public hearing is required for any local bridge constructed or reconstructed under Section 84.11 of the Wisconsin Statutes. See [FDM 4-10-1](#) for details. The time and place of the public hearing shall be fixed by the department within 60 days of receipt of a petition for construction of a bridge. Publication of a Class 2 Hearing Notice is required (two insertions in the official newspaper(s) of the area).
3. A public hearing is required for all bridge projects over any state boundary waters which are developed under Section 84.12 of the Wisconsin Statutes. See [FDM 4-10-5](#) for details. The public hearing time and place shall be fixed as indicated under "item 2" above. Publication of a Class 2 Hearing Notice is required.
4. Section 84.25 of the Wisconsin Statutes authorizes the department to designate as controlled access highways the rural portions of the State Trunk Highway System on which the average traffic potential is in excess of 2,000 vehicles per 24-hour day. See [FDM 7-15-5](#) for details. Such action cannot be effected until after a public hearing in the matter has been held in the county courthouse or other convenient public place following notice by publication of a Class 3 Hearing Notice. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. The Class 3 hearing notice must be published in a newspaper published in the county in which the action occurs. For some projects, several newspapers will be used in order to generate broad coverage and assure proper notice to the public.
5. Section 84.295(10) of the Wisconsin Statutes provides the department with the authority to establish and reserve the location and approximate widths of rights-of-way for future freeways or expressways.

See [FDM 7-40-1](#) for details. A notice of the public hearing shall be published in a newspaper having general circulation in the area affected by the project as a Class 3 Legal Notice as described in Statute 985. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. For some projects, several newspapers will be used in order to generate broad coverage and assure proper notice to the public. For a programmed improvement project, this public hearing can be held in conjunction with any other official public hearing for that project, so long as the s. 84.295 declaration is identified as an item on the agenda for that meeting.

6. Projects involving significant environmental impacts, and thereby requiring the development of an Environmental Impact Statement under either the Wisconsin or the National Environmental Policy Acts, require one or more public hearings. Upon publication of a Draft Environmental Impact Statement (DEIS), a combined public hearing may be held to satisfy this and other public hearing requirements. This requirement also applies when a Supplemental Draft Environmental Impact Statement is prepared.
7. In addition to required public hearings as noted in the preceding six categories, a public hearing must be held or the opportunity to request a public hearing must be offered on all projects when an environmental assessment is prepared.
8. In addition to required public hearings, as noted in the preceding seven items, a public hearing must be held or the opportunity to request a public hearing must be offered for any federal-aid or state-funded project 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
 - FHWA or the department determines that a public hearing is in the public interest.

5.2 Public Hearing Contents

A public hearing or opportunities to request a public hearing should provide for the following:

- A reasonable notice
- Availability of explanatory information about the project and the alternatives considered
- Estimated social, economic, and environmental impacts
- Information about the relocation assistance program
- A request specifically for public comments on historic or archaeological resources that may be located in the project area
- Information about the right-of-way acquisition process
- Procedures for requesting a public hearing or submitting verbal or written testimony about the project
- Any other information required by laws, regulations, or executive order.

FDM 6-15-10 Types of Public Hearings

December 20, 2013

10.1 General

The three types of public hearings held are:

- Traditional-Style Public Hearing - This is often referred to as a Town Hall type of public hearing. A traditional-style public hearing is usually held when there is a strong vocal opposition group that wants the opportunity to present formal testimony. The conduct of a traditional-style public hearing is detailed in [FDM 6-15-40](#).
- Open-Style Public Hearing - This is also referred to as a "Georgia-style" public hearing. A common type of public hearing held by many state highway agencies today is the open-style public hearing. Because a Hearing Chairperson is not required at this type of public hearing, a Chairman's Packet is not required in preparation for the public hearing (see [FDM 6-15-35.5](#)). Typically, an open-style public hearing is similar to a public involvement meeting with written testimony forms available for the public and court reporters located in semi-private areas of the designated building to record verbal

testimony for the public hearing record. The Project Statement may be given verbally, in a written format or by means of an audio/visual presentation.

- Hybrid-Style Hearing - This is a combination of the Traditional-Style and Open-Style Public Hearing types.

10.2 Public Hearing Type - Environmental Documents

The department has determined the hybrid-style hearing type will be used when a public hearing is required for an environmental document in an effort to accommodate all public hearing style preferences expressed by the public. Benefits of hybrid-style hearing are:

- Provides a format for people, who are not comfortable speaking in front of a group, the opportunity to present their testimony to court reporters privately
- Provides a private method of testimony for those who have concerns about their differing opinions from the majority or neighbors
- Provides a forum for those who want to have their comments and opinions heard publicly
- Provides an opportunity for those who want hear the comments and opinions of others prior to finalizing their testimony
- Provides flexibility in determining when to give verbal testimony. A person can select any time during the public hearing period to provide verbal testimony. They do not have to wait to give testimony during the traditional-style portion of the public hearing.
- A review of previously held WisDOT public hearings indicates that the department typically receives over three times the amount of public input using the open-style format compared to the traditional-style.

10.3 Public Hearing Type - Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions

The hybrid-style public hearing type is optional for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) public hearings that are not being combined with a public hearing for an environmental document prepared for Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action. The Region will determine the public hearing type that will be used for these actions.

FDM 6-15-15 Hybrid-Style Hearings Provisions

December 20, 2013

Provisions for conducting an effective hybrid-style public hearing include:

- The public hearing timeframe is typically two to four hours in length. The Region will determine the length of the public hearing by taking into account the level of public interest and controversy experienced during prior public involvement.
- The public hearing room would include exhibits and project representatives to answer general project-related questions. The exhibits and staff would be available during all the entire public hearing period. A brief presentation and/or question/answer session(s) could be held during this time, but is not required. If such a session is held, one session should be held within the first hour of the start of the public hearing and conclude no later than one hour after the start of the public hearing.
- The open-style public hearing portion of the hybrid-style hearing would be available during the entire public hearing period noted in public hearing announcements. A person could present public hearing testimony to a court reporter in a one-on-one format anytime during this period. The court reporter(s) could be located in the same room as the exhibits or a separate room, depending on the room availability of the facility where the public hearing is held. Those persons interested in providing private verbal testimony would be required to complete a "Registration Slip for Verbal Testimony" and present it to the court reporter. Required information on the form would include; name, address, representing (if applicable), speaking in favor/in opposition/for information only.
- The Region should specify the traditional-style public hearing start time in announcements and not include a traditional-style public hearing length. It should be explained that the traditional-style public hearing portion of the hybrid-style hearing will be concluded when all public verbal testimony has been provided or when the hybrid-style hearing timeframe concludes, whichever occurs first.
- At a minimum, the traditional-style public hearing portion of the hybrid-style hearing would be staffed by one project representative serving as the public hearing proctor and one court reporter recording testimony. The project representative and need for additional project representatives would be determined by the lead agencies conducting the public hearing.
- Those persons interested in providing public verbal testimony during the traditional-style public hearing portion of the hybrid-style hearing would be required to complete a "Registration Slip for Verbal

Testimony” and present it to the public hearing proctor. Required information on the form would include; name, address, representing (if applicable), speaking in favor/in opposition/for information only.

- Persons presenting public verbal testimony during the traditional-style public hearing portion of the hybrid-style hearing would be asked to limit their testimony to no more than three (3) minutes. Those interested in providing more than 3 minutes of testimony should be informed that they would be able to provide additional testimony after others wishing to testify have done so.
- The decision to respond to testimony, ask questions and/or provide clarification during the traditional-style public hearing portion of the hybrid-style hearing, would be at the sole discretion of the Hearing Chairperson.
- A format for those interested in providing written testimony at the public hearing would also be provided during the entire public hearing period. It will also be indicated that written testimony will be accepted during the entire environmental document availability period.
- WisDOT or the Local Roads Program Management Consultant would ensure that any information the lead agencies prepare for distribution at the public hearing is identified as lead agency materials. This would assist the public in differentiating between project-sponsor materials and materials that could potentially be distributed by other entities attending the public hearing.
- Other entities would be allowed to distribute information applicable to the matter at hand during the public hearing. It would be required that the information be distributed in written or video format; no audio or amplification devices would be allowed. Those wanting to present information would be required to arrange for tables and chairs, if desired, with the managers of the facility where the public hearing is being conducted.
- The entity distributing materials should clearly label those materials with their name or organization name. If they are distributing the materials from a set location in the public hearing area, that area should also clearly display the name of the entity distributing the materials.
- If materials to be distributed by others will be presented in a location the lead agencies have secured for the public hearing, the location for distribution would be at the sole discretion of the lead agencies conducting the public hearing.

FDM 6-15-20 Pre-Hearing Activities

September 19, 2014

20.1 General

Certain activities will define the lead-time required for a public hearing. The timeline depends on the nature of the public hearing and the project as outlined in Table 20.1 below.

Table 20.1 Recommended Lead Time for Activities Relating to Public Hearings

Recommended Lead Time Prior to Public Hearing Date	Activity/Application
Seven weeks	<p>If a public hearing includes a presentation, additional lead-time should be allowed (see FDM 6-15-35.6 and FDM 6-15-40.6).</p> <p>The Region resolves any key issues listed previously. Prepare and send an internal email of the Public Hearing Internal Notice.</p> <p>Choose a site that is ADA accessible.</p> <p>Consultants submit their draft public hearing notices to the Region for review.</p>
Six weeks	<p>Consultants submit their revised public hearing notices to the appropriate Region.</p> <p>The Region or their consultant arranges a court reporter(s).</p>
Three weeks	<p>The Region or their consultant finishes the public hearing exhibits, the Handout Packet, and the Chairman's Packet if necessary.</p>
Less than fourteen days	<p>The Region staff, or their consultant, should make final arrangements for the public hearing site. Check all logistics such as equipment, lighting, seating, tables and more. Determine if a portable public-address system is necessary. Make sure to meet all ADA requirements.</p>

20.2 Internal Coordination

As the project's environmental document is being prepared for public availability, the Region selects a public hearing date based upon their anticipated development timetable. The Region will resolve these issues:

- Develop a statement of public hearing purpose and establish the public hearing scope.
- Confirm the public hearing date, time and place.
- Determine the style of public hearing (traditional, open, or hybrid) if the public hearing is being held for a Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action and no environmental document is involved.
- Determine who should chair a traditional-style public hearing or traditional-style portion of a hybrid-style hearing.
- Determine if a pre-hearing conference is needed. See [FDM 6-15-35.7](#) for more details.

Complete the internal coordination and the pre-hearing conference, if necessary, prior to releasing the legal notice for publication. This will ensure general agreement on major public hearing aspects before commitments are made. These issues need to be resolved at least seven weeks prior to the anticipated public hearing date. Appropriate documentation of these actions should be in the files.

Notify WisDOT central office managers who are stakeholders in the development of projects with significant public interest. Use [DT1370](#), Public Hearing Internal Notice to communicate internally the proposed plans for a public hearing.

20.3 Legal Notice for the Public Hearing

Once the above internal coordination issues are resolved, the Region or their consultant shall prepare the following documents:

- The legal notice (see [FDM 6-15-25](#) for content)
- A list of newspapers where the legal notice will be published and the publication dates
- A list of special recipients of the legal notice. The standard and special distribution lists for public hearing notices are found on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

The Region sends the appropriate items to the offices listed in the Table 20.2 prior to the public hearing date. Timing is based on the legal notice publishing requirement of the specific newspaper(s).

Table 20.2 Summary of Recipient of Documents

Recipients of Documents	Legal Notice	List of Newspapers and Dates	List of Special Recipients of Notice
Region Purchasing Agent	X	X	----
FHWA Field Operations Engineer	X	X	X
WisDOT Bureau of Technical Services' EPDS Region Liaison	X	X	----
WisDOT Region Communications Manager	X	X	X

At the Region's discretion, the Region may prepare a separate informal news release or display ad for publication using print media and/or radio announcements in addition to the legal notice. As Department policy on social media is enacted; resources such as Facebook, Twitter, blogs or other media may be used. See [FDM 6-15-30](#) for more details.

The Region Purchasing Agent prepares the purchase order to get the notice published. The Purchasing Agent requests affidavits from the newspapers to confirm the notice was published properly. The newspaper(s) must present this affidavit in order to be paid. The designer should request copies of affidavits from each newspaper for the project file.

For state projects engineered by a consultant, the consultant prepares and provides the Region a package consisting of the notice, the list of newspapers and dates, and the list of special recipients.

The Region or their consultant shall send copies of the notice to the recipients listed on the standard and special distribution lists for public hearing notices found on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

This includes those on the standard distribution list as well as any unique individual distribution lists for the appropriate Region. The distributions should coincide with the legal notice being placed in newspapers.

For local projects engineered by the local unit of government or their consultant, coordinate details with the Region to assure that the notice fulfills all necessary legal requirements.

20.4 Federal Register Announcement

For federally funded projects that require a draft, final, or supplemental Environmental Impact Statement (EIS), the document must be posted to the Environmental Protection Agency's (EPA's) electronic National Environmental Policy Act (e-NEPA) website. The posting of the EIS to the e-NEPA website establishes the comment period (minimum 45 days) for draft EIS documents. Additional guidelines for this process follow:

- EPA publishes notices of availability in the Federal Register every Friday (or Thursday when Friday is a Federal holiday). EPA's notices include all complete EIS submittals from the previous week. Consequently, WisDOT staff should submit documents to FHWA a minimum of two weeks prior to the intended date of notice in the Federal Register.
- Prior to posting the EIS on the e-NEPA website, the document must be completely ready for publication and must conform to the format requirements listed in EPA's submittal guide.

<http://energy.gov/nepa/downloads/epa-electronic-submittal-environmental-impact-statements-epa>

In general, it is the responsibility of WisDOT or its consultant to ensure these requirements are met.

- Prior to posting the EIS on the e-NEPA website, the document must have been submitted to the appropriate agencies and other project stakeholders, and made available to the public.
- The 45-day comment period begins on the date the EPA notice is published. See [FDM 6-15-25.3](#) and [FDM 6-15-25.4](#) for WisDOT process for determining public hearing timing.
- Only FHWA environmental staff can post documents to the e-NEPA website. WisDOT project staff must coordinate document transmittal with FHWA early in project development to ensure that project timelines are met. WisDOT project staff must coordinate with the FHWA field operations engineer and applicable environmental staff member(s).
- Posting the EIS to e-NEPA does not remove the requirement to provide EPA Regional staff with paper and electronic copies of the document for their review.

25.1 General

This procedure describes how to determine whether to publish a Notice of Opportunity to Request a Public Hearing or publish a Notice of the Public Hearing. Both of these forms are on the environmental programs forms and tools webpage:

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Preparation and publication requirements of these two documents are detailed in the following sections.

25.2 Which Notice to Publish

Environmental Impact Statements

As discussed in [FDM 6-15-5](#), projects involving significant environmental impacts, and thereby requiring the development of an Environmental Impact Statement under either the Wisconsin or the National Environmental Policy Acts, require one or more public hearings. A Notice of Public Hearing must be published prior to holding the public hearing. This requirement also applies when a Supplemental Draft Environmental Impact Statement is prepared.

Environmental Assessments

- It is the Region's decision whether to publish a Notice of Opportunity to Request a Public Hearing or a Notice of Public Hearing when an Environmental Assessment is prepared for a proposed project. For projects with unique circumstances, it is recommended that the project team consult with the Bureau of Technical Services' Environmental Process and Document Section Region liaison on the proper notice to publish.
- If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request.

FHWA Type 2c Categorical Exclusion/WisDOT Environmental Report

- For an FHWA Type 2c Categorical Exclusion* (also called a WisDOT Environmental Report), a public hearing must be held or the opportunity to request a public hearing must be offered if the project meets any of the following criteria:
 1. Requires significant amounts of right-of-way.
 2. Substantially changes the layout or functions of connecting roadways or of the facility being improved.
 3. Has a substantial adverse impact on abutting property.
 4. Has a significant social, economic, environmental, or other effect.
 5. FHWA or the department determines that a public hearing is in the public interest.
- The determination of whether or not the project meets any of the five criteria is included as part of the environmental document. Signature of the environmental document indicates FHWA concurrence with the determination.
- If it is determined that the project meets any of the five criteria, a meeting including Region, Bureau of Technical Services' Environmental Process and Document Section, and FHWA staff should occur to determine if a Notice of Opportunity to Request a Public Hearing or Notice of the Public Hearing will be published.
- If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request.

* The term "environmental report" will be used.

Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions

As discussed in [FDM 6-15-5](#), Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) actions require a public hearing. A Notice of Public Hearing must be published prior to holding the public hearing. If an environmental document is prepared for any of these actions, a single public hearing may be held to satisfy public hearing requirements for both actions. A hearing notice for a section 84.25 action must be published in a newspaper that is published in the county in which the action occurs at a minimum.

25.3 Notice of Opportunity to Request a Public Hearing

After the environmental assessment (or the environmental report if it has been determined that a Notice of Opportunity to Request a Public Hearing will be published) for the project has been approved, the Region, or their consultant, prepares and distributes the legal notice and other public hearing notification documents according to the list and process shown in [FDM 6-15-20.3](#). The Region or their consultant also distributes the legal notice and other documentation to each appropriate recipient listed in the standard distribution for public hearing.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cns-its-rsrcs/environment/formsandtools.aspx>

Each Region Communication Manager also has a special distribution list of people and organizations to be notified in their Region.

As a minimum, the Notice of Opportunity to Request a Public Hearing contains the following information, as appropriate:

- Brief project description. Include the Notice of Intent to Change State Trunk Highway System, Section 404 project aspects, specific mention of wetland involvement, etc., as appropriate
- Information where additional project information can be requested or viewed
- Availability of relocations assistance
- Procedures to request a public hearing and the deadline to submit a public hearing request
- Availability of the environmental document and the length of the comment period
- Process on how to contact the Region or their consultant for special accommodations and accessibility

The first publication must be at least 30 days prior to the deadline for requesting a public hearing. This 30-day period is, in most cases, also the 30-day availability period required for the environmental assessment or environmental report. A second publication should be published a week later. A copy of the Notice of Opportunity to Request a Public Hearing template is found at:

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cns-its-rsrcs/environment/formsandtools.aspx>

A copy of the Notice is sent to the same individuals, agencies, and organizations who would receive a Notice of Public Hearing. If no requests are received within the allotted time, state this explicitly in the project's final environmental document.

If a Notice of Opportunity to Request a Public Hearing is published and a request(s) is made to hold a public hearing, a public hearing must be held unless the person(s) provide the Region a written statement rescinding the public hearing request. Evidence of this written statement must be included in the project's final environmental document.

25.4 Notice of Public Hearing

Region staff and consultants should refer to [FDM 6-15-20.3](#) for guidance on the documents needed to announce a public hearing and how they are to be processed.

25.4.1 Notice of Public Hearing Contents

At a minimum, the Notice of Public Hearing should contain the following information:

- Purpose of the public hearing including the location, design, notice of availability of the environmental document, and state trunk highway system change aspects for the proposed project.
- Description and scope of project plus the extent of right-of-way acquisition. Include Section 404 project aspects, whether the public hearing will be a joint venture of WisDOT and others, and specific details of wetland involvement, etc., as appropriate.
- Date, time, and place of public hearing and the deadline for receipt of additional testimony after the public hearing.
- Information where additional project information can be requested or reviewed.
- Whether property acquisition and construction schedules will be discussed.
- Information on relocation assistance if relocations will occur.
- Provisions for submitting additional written testimony.
- Availability of the environmental document and the deadline date to receive comments on the environment document. The minimum availability and comment period for an EIS is 45 days and 30 days for an EA.
- Request for historic, archeological, or burial information.
- Information on how special needs are met, site accessibility, and availability of interpreters, if needed.

The Notice of Public Hearing template and the standard and special distribution lists for public hearing notices are on the Environmental Programs forms and tools website.

<https://wisconsin.gov/Pages/doing-business/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

25.4.2 Notice of Public Hearing Publication Requirements - Environmental Document Only

When a public hearing is being conducted for an environmental document only, notices should be published twice in area newspaper(s). The first notice should be published at least 30 days before the public hearing and the second not more than 14 days before the public hearing. If the Region determines these publication timelines can't be met, written concurrence from the Section Chief of the Bureau of Technical Services' Environmental Process and Document Section must be obtained before the minimum publication requirement of one public hearing notice published at least 15 days before the public hearing will be allowed.

25.4.3 Notice of Public Hearing Publication Requirements - Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) Actions Only

When a public hearing is being conducted for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) actions only, a notice of the public hearing shall be published in area newspaper(s) as a Class 3 Legal Notice as described in Statute 985. There shall be three publications, once each week for consecutive weeks, the last of which shall be at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. The notice of public hearing for an 84.25 action must be published in a newspaper published in the county in which the action is proposed as a minimum.

The Notice of Public Hearing must be sent via registered/certified mail to owners of record abutting the roadway on which a public hearing is being held for a Section 84.25 action.

25.4.4 Notice of Public Hearing Publication Requirements - Combined Actions

When a public hearing is being conducted for an environmental document that also includes a Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action, as a minimum, a notice of the public hearing shall be published in area newspaper(s) as a Class 3 Legal Notice as described in Statute 985. There shall be a minimum of three publications, once each week, for consecutive weeks. The first notice should be published at least 30 days before the public hearing and the third not more than 14 days before but at least 7 days before the public hearing. It is suggested that 4 publications be made to create a safety net to assure that at least 3 of the publications meet the legal requirements, in case one of the publications is later than requested. If it is decided to use a minimum of 3 publications, early coordination with the Bureau of Technical Services' Environmental Process and Document Section must occur to ensure publication timeframe requirements are met. If the Region determines the first publication can't occur at least 30 days before the public hearing, written concurrence from the Section Chief of the Bureau of Technical Services' Environmental Process and Document Section must be obtained. The notice of public hearing for an 84.25 action must be published in a newspaper published in the county in which the action is proposed as a minimum.

The Notice of Public Hearing must be sent via registered/certified mail to owners of record abutting the roadway on which a combined public hearing is being held for an environmental document and a Section 84.25 action.

25.5 Notice Requirements for Section 404 of the Federal Clean Water Act

Projects involving the placement of fill material into waters of the United States require a permit from the U. S. Army Corps of Engineers (USACE) in accordance with Section 404 of the Federal Clean Water Act. However, before the USACE can issue a permit, their public hearing requirements must be fulfilled. When projects using federal aid are combined with the need to comply with USACE hearing requirements, the public hearing process may be quite extensive. A chronology of the multiple public hearing processes is described below with relevant details in parentheses:

- Notice of Opportunity to Request a Public Hearing or Notice of Public Hearing is published (federal aid requirement, WisDOT public hearing)
- Public Hearing held (federal aid)
- Section 404 application to USACE
- Public notice providing an opportunity for a Public Hearing published (USACE requirement, USACE hearing)
- Hearing notice published (USACE)
- Hearing held (USACE)

To reduce duplicating public hearing efforts, specific Section 404 aspects should be in the Notice of Opportunity to Request a Public Hearing and/or the Notice of Public Hearing for the environmental document. By adding the

404 language to these notices, the scope of the public hearing is expanded to include testimony on Section 404 project aspects. In the event that a person who requested a public hearing for the environmental document and/or who testified at the public hearing on the environmental document subsequently requests a public hearing conducted by the USACE for the Section 404 permit application, the USACE would have justification for considering that their public hearing requirements are met. The USACE could deny the public hearing request citing that the person requesting the public hearing had already been given an opportunity to testify on 404 project aspects through the environmental document public hearing process.

Another possibility for eliminating duplication of effort exists if consideration is given to conducting the public hearing on the environmental document as a joint public hearing, to satisfy requirements of the USACE, FHWA and the Department. For example, if the Notice of Opportunity to Request a Public Hearing or Notice of Public Hearing for the environmental document referred to Section 404 project aspects, consideration could be given to a joint public hearing.

For those projects involving significant or controversial Section 404 project aspects, consider conducting a joint public hearing. Contact the USACE to determine if it is desirable to hold a joint public hearing for these projects. In order for the USACE to meet their hearing procedures, they must receive the 404 permit application at least 90 days before the hearing.

Refer to the Notice of Opportunity to Request a Public Hearing and Notice of Public Hearing Templates found on the Environmental Programs forms and tools website for additional examples of Section 404 language.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

25.6 Notice Requirements for Wetland Considerations

If one or more project alternatives affect wetlands, a Public Hearing Notice or Notice of Opportunity to Request a Public Hearing shall indicate if one or more alternatives would be located in wetlands.

This wetlands notice requirement is applicable to all federal aid projects in accordance with FHWA. More details of federal policies and regulations related to wetlands are found in [FDM 20-40](#).

25.7 Notice Requirements for Substantial Encroachments on Floodplains

If one or more project alternatives include substantial encroachment on a floodplain the Public Hearing Notices and Notices Offering an Opportunity to Request a Public Hearing shall indicate that one or more alternatives includes substantial encroachment on a flood plain.

FDM 6-15-30 News Releases, Display Ads, Newspaper Graphics and Social Media *September 19, 2014*

30.1 News Releases and Display Ads

For a public hearing, a news release is required. For a public hearing or public involvement meeting, a display ad is optional. Display ads are typically a paid advertisement and written as informal news.

The Region or their consultant prepares news releases and display ads.

The ad or news release briefly describes the proposal, the public hearing, or public involvement meeting date, and a contact person for additional information.

News releases and display ads are usually sent to the same newspapers as the public hearing legal notice. They can also be sent to newspapers in surrounding areas to provide a wider circulation. Area radio and TV stations can also be provided with copies of the news release.

The Environmental Programs forms and tools website contains templates for these forms.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

30.2 Newspaper Graphics

In many instances the Region may wish to supplement a news release with a map or visual to clarify certain aspects of a proposal or to draw attention to the notice. A map should be considered when text alone would not sufficiently describe the project. The map is necessary for additional details and to visually aid in understanding the project proposal. The requirements of the map to be included are:

- Sufficient reference of details to identify the project orientation, street names, direction, etc.
- Shows only pertinent information
- Is drawn to scale when reproduced in the newspaper, if possible
- Is prepared in black-on-white format to simplify reproduction

Size requirements for legal notices and ads will vary according to the publication or newspaper. Many publications handle the production. Contact publications directly for details.

30.3 Social Media

Social media tools provide additional ways for public outreach. This includes Facebook, Twitter, and YouTube. WisDOT's policy on social media is in the transportation administrative manual (TAM) as COM 105. This policy must be used to establish new social media sites.

Region communication managers work in coordination with the Office of Public Affairs (OPA) to provide ongoing administration and messaging on established social media sites. A best practice is to only have dedicated Facebook and Twitter sites for mega projects. Other projects can still utilize social media tools via the department's official Facebook and Twitter sites administered through OPA. Work with the Regional communication manager to consider how social media tools might be used.

FDM 6-15-35 Preparing for a Public Hearing

September 19, 2014

35.1 General

This procedure outlines elements related to preparing for a public hearing. Local units of government (city/town/county) or their consultant should use the elements identified in this procedure when they are responsible for the preparing and conducting the public hearing.

35.2 Public Hearing Exhibits

Once the need for a public hearing is identified, the Region or their consultant can begin preparing public hearing exhibits. Typically public hearing exhibits include:

- Project background and the purpose/need
- Location of the project alternatives
- Roads to be removed, added or altered, etc.
- Properties to be acquired and owners' names
- The title and date the aerial was taken
- Scales and legends
- Areas of wetland involvement, flood plain encroachment, public lands, etc. Also include Section 106 and Section 4(f) resources unless there is sensitive or confidential information
- Typical cross sections
- Any other information necessary to appropriately explain elements of the project

Public hearings may involve many people; therefore, these exhibits should be large, easily read, in color if possible, and suitable for wall mounting. They should be displayed while the public hearing is in progress.

The Region or their consultant is responsible for taking color photographs of the full-scale public hearing exhibits. The original photos must be in a reproducible format. The photo negatives or the digital medium on which the photos are stored should be included in the Region's copy of the public hearing record.

Copies of the photographs are a required part of the public hearing record transmitted to FHWA and the WisDOT Bureau of Technical Services' Environmental Process and Document Section. The photographs must be clear and you must be able to read lettering to reconstruct the public hearing exhibits from the photos. It is not necessary to be able to read the names of property owners since this is usually the smallest font on exhibits.

35.3 Project Statement

The project team shall prepare a Project Statement which is presented at the public hearing. This statement provides a summary of the background, purpose, and planning efforts involved in the development of the proposed project, the exhibits on display, and the alternatives. In addition to a description of the proposed project and the surrounding area, the statement includes a discussion of the anticipated social, economic, and environmental impacts of the alternatives. The Project Statement should be included in the Hearing Handout Packet and detailed during the project presentation.

Refer to the Chairperson's Packet Template, found on the Environmental Programs forms and tools website, for detailed language that must be included as part of every Project Statement.

<https://wisconsinindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

35.4 Public Hearing Packet Handout

A packet of materials is prepared for all public hearings by the Region or their consultant to be given to participants at the public hearing. Review and discuss this packet at the pre-hearing conference. Elements of the Hearing Handout Packet are:

- Cover sheet
- Hearing Handout Packet Contents
- Welcome
- Public Hearing Agenda
- Options and Instructions for Providing Testimony
- Project or Study Location Map
- Purpose of the Public Hearing
- Environmental Documentation Process
- Information for the Public Hearing Record
- Project Statement
 - Project Description
 - Project Purpose and Need
 - Alternatives Screening Process and Timeline
 - Description of Alternatives for Detailed Study
 - Alternative Exhibits
- Alternatives Comparison Matrix
- Property Acquisition/Relocation Assistance and Benefits (if applicable)
- Next Steps/Project Schedule
- Description of Public Hearing Exhibits
- Contact Information
- Written Testimony Form (in prepaid mailer format)
- Registration Slip for Verbal Testimony

Not all the elements identified may be required for every hearing handout packet. For example, there may be no relocations required as part of the alternatives carried forward for detailed study.

Follow the format of the Public Hearing Handout Packet Template for all public hearings. Request samples of Hearing Handout Packets prepared for other projects from the Region Communications Manager. The Environmental Programs forms and tools website contains the public hearing handout packet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

35.5 Chairperson's Packet

A Chairperson's Packet is prepared for all public hearings by the Region or their consultant. Review and discuss this packet at the pre-hearing conference if there is one. The Chairperson's Packet should include:

- Welcome (by the Chairperson)
- Project Presentation and Question/Answer Session
- Opening Statement (by the Chairperson)
- Information for the Record
- Project Statement
- Invitation of Testimony (by the Chairperson)
- Closing Statement (by the Chairperson)

Follow the format of the Chairperson's Packet Template for all public hearings. Request samples of Chairperson's Packets prepared for other projects from the Region Communications Manager. The Environmental Programs forms and tools website contains the chairperson's packet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

35.6 Audio/Visual Project Presentations

Project presentations using PowerPoint or other technology such as Google Earth are methods that should be utilized at the public hearing to effectively share project information and data. If an audio and/or visual presentation of the Project Statement is made at the public hearing, the final presentation should be shown at

the pre-hearing conference.

35.7 Pre-Hearing Conference

The Region will schedule pre-hearing conferences. The pre-hearing conference provides a “practice run” to review the public hearing procedure, exhibits, Hearing Handout Packet, Chairperson’s Packet, project presentation, the Project Statement, and the project status. Region, central office, and consultant staff (as appropriate) typically attend. For projects that are considered major or controversial, the Region director, central office division administrator, and the Secretary’s Office, should also be invited to attend.

At the pre-hearing conference, the public hearing procedure and recent project-related developments are reviewed and the Project Statement is read and discussed. Draft revisions and additions to the material for inclusion in the final project presentation. The pre-hearing conference should be held prior to the release of the legal notice for the first newspaper publication. This assures that all are in agreement before the Department is committed to the published proposal.

FDM 6-15-40 Conducting the Public Hearing

September 19, 2014

40.1 General

The department has determined the hybrid-style hearing type will be used when a public hearing is required for an environmental document. Follow all parts of this procedure for the hybrid-style hearing.

The hybrid-style hearing type is optional for Section 84.02, 84.11, 84.12, 84.25 and 84.295(10) public hearings that are not being combined with a public hearing for an environmental document prepared for the Section 84.02, 84.11, 84.12, 84.25 or 84.295(10) action. The Region will determine the public hearing type to be used for these actions. If the Region determines only a traditional-style public hearing will be held for these actions, [FDM 6-15-40.4](#) Open-Style Portion of the Hybrid Public Hearing of this procedure does not apply.

When a public hearing is conducted by a local unit of government or their consultant, the Region must ensure that legal requirements including appropriate notices, documents, brochures, Hearing Handout Packet, Chairperson’s Packet, etc. are met. All of these elements must be entered into the public hearing record as exhibits. The Region is also responsible for ensuring that the project presentation and Project Statement includes information on relocation assistance, property acquisition, wetland considerations, flood plain encroachments, construction scheduling, etc.

40.2 Public Hearing Room Entry Area

Project team members should be seated at a sign-in table located near the public hearing room entry area. Greet members of the public as they approach the table. Thank attendees for participating and ask them to fill out the sign-in sheet. The Environmental Programs forms and tools website contains the public hearing sign in sheet template.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

Provide attendees with a Hearing Handout Packet ([FDM 6-15-35.4](#)). Explain that the packet includes a page detailing the different ways verbal and written testimony can be provided at the public hearing and how written testimony can be provided any time prior to the environmental document comment period ending.

Extra copies of the public hearing Written Testimony Form and the Registration Slip for Verbal Testimony included in the Hearing Handout Packet should also be available at the sign-in table.

40.3 Informational Discussions

Informational discussions provide an additional opportunity for all interested parties to discuss the proposed project with representatives of the department, government, and consultant staff in an informal atmosphere prior to providing their official testimony. Have staff available in the discussion area during the entire public hearing timeframe. Discussions are typically held in the public hearing exhibit area. Staff should try to separate this area from the area where traditional-style public hearing testimony will occur.

40.4 Open-Style Portion of the Hybrid-Style Public Hearing

The open-style public hearing portion of the hybrid-style hearing should be available during the entire public hearing period noted in public hearing announcements. A person could present public hearing testimony to a court reporter in a one-on-one format anytime during this period. The court reporter(s) could be located in the same room as the public hearing exhibits or in a separate room, depending on the room availability of the facility where the public hearing is being held.

Instruct the court reporter to request a completed copy of the Registration Slip for Verbal Testimony prior to the

participant providing testimony.

40.5 Traditional-Style Portion of the Hybrid-Style Public Hearing

The Region should specify the traditional-style public hearing start time in public hearing announcements and not include a traditional-style public hearing length. It should be explained that the traditional-style public hearing portion of the hybrid-style hearing will be concluded when all public verbal testimony has been provided or when the hybrid-style hearing timeframe concludes, whichever occurs first.

Instruct the public hearing proctor to request a completed copy of the Registration Slip for Verbal Testimony prior to the participant providing testimony.

40.6 Format of the Traditional-Style Portion of the Hybrid-Style Public Hearing

See the Chairperson's Packet Template, [FDM 6-15-35.5](#) for the traditional-style public hearing format. The format of traditional-style portion of the hybrid-style hearing includes:

- Welcome (by the Chairperson)
- Project Presentation and Question/Answer Session
- Opening Statement (by the Chairperson)
- Information for the Record
- Project Statement
- Invitation of Testimony (by the Chairperson)
- Closing Statement (by the Chairperson)

A project presentation should be given prior to opening statement. The project presentation should be transcribed by the court reporter. A copy of the project presentation script, paper copy of a PowerPoint presentation and/or other visual exhibits used during the project presentation should be included in the public hearing record.

Instruct the court reporter that the question/answer session is not to be transcribed. The Hearing Chairperson should explain to the public that the question/answer portion of the project presentation is for the purpose of assisting the public in preparing their formal testimony and will not be part of the official public hearing record. If members of the public are making statements during the question/answer session, they should be encouraged to include those statements in their official testimony. The Hearing Chairperson should limit the question/answer portion of the project presentation to a reasonable length.

If a detailed Information for the Record and Project Statement are included in the Hearing Handout Packet, the Chairman's Packet need only include a summary of these two traditional-style public hearing elements. The presenter during the traditional-style portion of the public hearing should note that the full Information for the Record and the Project Statement discussion are found in the Hearing Handout Packet. The Information for the Record and Project Statement elements should also be included as part of the project presentation.

40.7 Court Reporter

Most Regions feel more secure with a professional court reporter hired to transcribe at the public hearing. The court reporter's transcript is accepted in any court of law.

When holding a hybrid-style hearing, consideration should be given to whether additional court reporters should be made available to document verbal testimony. Conditions that may warrant additional court reporters include a highly controversial project, a project with a large number of abutting-property owners, anticipation of a large number of persons attending the public hearing, etc. The Region must take into account all these and other individual factors that may influence the amount of testimony and use their best judgment in hiring the correct number of court reporters.

For the open-style public hearing portion of the hybrid-style hearing, the court reporter(s) could be located in the same room as the exhibits or in a separate room, depending on room availability. It is desirable to have a separate, semi-private area for the court reporters where people can feel comfortable giving one-on-one testimony.

When hiring a court reporter, give them detailed instructions on the required format of the transcript.

The Environmental Programs forms and tools website contains the instruction sheet for court reporters.

<https://wisconsin.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>

40.8 Public Hearing Transcripts

Verbatim transcripts are prepared by the court reporter(s) for both public and private verbal testimony. At the

public hearing, remind the court reporter(s) that the original transcript plus two copies are required. The Region or their consultant adds the public hearing transcript to the public hearing record (see [FDM 6-15-45](#)).

People attending the public hearing can purchase a copy of the public hearing record from department staff after the formal public hearing has concluded and the transcripts are complete.

40.9 Audio Taping

Some Regions prefer audio taping what was stated at the public hearing. The transcript produced from an audio taping is usually available for reviews and project considerations very quickly after a public hearing. When a public hearing is audio taped, holding the public hearing is not dependent on the court reporter being present.

The format for audio taping the open-style public hearing portion of the hybrid-style is similar to that of when a court reporter is used (see [FDM 6-15-40.7](#) Court Reporter).

Arrangements for audio taping a public hearing should be made early in the preparation process. This is best done at the same time arrangements for a public address system are made. For help with these matters the Region should contact the Creative Communication Services Unit of the Division of Business Management's Bureau of Management Services.

FDM 6-15-45 Public Hearing Record

May 18, 2020

Federal law and regulation (23 USC 128 and 23 CFR 771) requires WisDOT to provide FHWA with a public hearing certification, public hearing transcripts (including those provided privately to a court reporter), copies of written comments as well as copies of other materials made available at the public hearing. Other materials may include, but are not limited to, presentations, copies of exhibits, and materials that public hearing participants submitted to the department. This requirement is detailed at 23 CFR §771.111(h)(2)(vi), which states; "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."

WisDOT must provide the public hearing certification and documentation, as described above, to FHWA before the formal approval of the final environmental document (CE, ER, FONSI, ROD). These requirements apply to all Federal Aid projects requiring a public hearing or those that must provide opportunity for a public hearing.

The WisDOT 23 USC 128 Certification must indicate that the Department has afforded the opportunity for such public hearings, and has considered the economic and social effects of the project, its location, its impact on the environment, and its consistency with the urban planning goals and objectives promulgated by the community. In addition, the certification must indicate that the public hearing(s) were held at a time convenient to and accessible by the public, or that WisDOT has afforded the opportunity for such public hearings. The time and location of the public hearing(s), or opportunity for a public hearing(s) must not prohibit the ability for persons living in rural or urban areas through or contiguous to whose property the highway will pass, to express any objections they may have to the proposed locations of such highway.

All verbal and written testimony given by the public along with any verbal or written offerings given to the department by a presenter must be included in the public hearing record.

Distribute copies of the public hearing record with photographs of the exhibits to FHWA, Central Office Environmental Process and Documentation Section Region Liaison, and Region files.

The Region or their consultant adds testimony received after the public hearing into the official public hearing record. Place letters and memos about environmental issues or any testimony from the public hearing in the public hearing record. Take color photographs of the full scale exhibits used during the public hearing and include as part of the public hearing record.

Three official public hearing records are assembled using the Sample Public Hearing Record Table of Contents. Keep one copy at the Region office. Send the other two to WisDOT Bureau of Technical Services' Environmental Process and Document Section and the FHWA Division Office. They are considered legal documents and admissible in court proceedings. If additional copies are needed for local governments, politicians, or others, the Region or consultant can produce them as requested.

For projects sponsored by local units of government or their consultants, which use federal or state funds, the same procedures described above are used for the official public hearing record.

The Environmental Programs forms and tools website contains the sample Public Hearing Record Table of Contents template.

<https://wisconsin.dot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/environment/formsandtools.aspx>