



Wisconsin Department of Transportation
Division of Transportation System Development
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Memorandum

Date: June 12, 2020

To: Project Development Chiefs
Technical Services Chiefs
Systems Planning Chiefs
Region Communication Managers
Region Environmental Coordinators

From: Jay Waldschmidt, P.E., Section Chief 
Environmental Process and Documentation Section

Subject: Interim Policy on Project-Level Public Hearings

Delivering and maintaining a safe and efficient transportation system continues to be an essential element of service we provide to the people of Wisconsin. During the COVID-19 public health emergency, we are as committed as ever to continuing our important work.

The Federal Highway Administration has stated that Public Hearings conducted as part of an environmental document development process which requires federal approval must incorporate an In-Person component as part of that Public Hearing.

This memo provides policy on modifications to the existing project-level Public Hearing process in the Department's effort to comply with the original Wisconsin Safer at Home order (DHS EO#12) which was struck down by the Wisconsin Supreme Court on 5/13/2020 and county emergency orders/plans which may be in effect at the time of the proposed Public Hearing.

This policy applies to all project-level Public Hearings which can't be postponed until unrestricted In-Person Public Hearings are allowed.

The attached [Guidance for Complying with the Interim Policy on Project-Level Public Hearings](#) identifies recommended methods by which the In-Person component of Public Hearings will comply with social distancing and sanitation practices to safeguard WisDOT project teams and the public attending a Public Hearing.

The Department will continue to monitor crisis conditions and In-Person contact restrictions. Follow-up emails will be distributed as changes to public contact restrictions occur.

Finally, it is also desired that other bureaus outside DTSD accept this interim policy for their project-level Public Hearings.

Existing WisDOT public involvement policy

WisDOT Facilities Development Manual Section 6-15, Public Hearings, will continue to be used as the base of the Department's Public Hearing policy.

Interim modifications in response to the revoked Safer at Home order (DHS EO#12), existing county Emergency Orders/plans and FHWA Public Hearing Requirements

- Project-level Public Hearing components

A project-level Public Hearing will be comprised of an In-Person component and Virtual component.

- Scheduling of the two components

The Virtual component is to be held the night before the In-Person component. The purpose for different dates of the two components is to encourage the majority of the public to participate in the Virtual component and reduce person-to-person contact during the COVID-19 pandemic period.

The guidance that follows this memo is provided to assist project teams in complying with the Interim Policy on Project-Level Public Hearings. Each Public Hearing location is unique. An attempt should be made to comply with social distancing elements of the guidance, to the extent practicable, given the limitations of different Public Hearing facilities. If a project team has proposed changes to the guidance, the project team must schedule a meeting with EPDS and FHWA to discuss the changes.

If you have questions related to this interim policy, please contact Jay Waldschmidt at 608-267-9806 or by email at jay.waldschmidt@dot.wi.gov.

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Guidance for Complying with the Interim Policy on Project-Level Public Hearings

This guidance is provided to assist project teams in complying with the Interim Policy on Project-Level Public Hearings. Each Public Hearing location is unique. An attempt should be made to comply with social distancing elements of this guidance, to the extent practicable, given the limitations of different Public Hearing facilities. If a project team has proposed changes to the guidance, the project team must schedule a meeting with EPDS and FHWA to discuss.

Project teams should also be aware that emergency orders and state/local plans for addressing COVID-19 issues can change frequently. This may include the need to call-off the In-Person component of the Public Hearing at any time. It is the responsibility of the project team to ensure compliance with the latest COVID-19 requirements and guidance. Continuous communication with WisDOT C.O. and FHWA is a critical part of the decision-making process.

Alternate methods to participate in the public involvement process

Public Hearing notices (news releases, postcards, newsletters, website postings, etc.) are required to include the name, Region office address, phone number and email address of a project team contact. This ensures that individuals who don't have access to virtual media, or don't want to use virtual media, or don't know how to use virtual media, are afforded an opportunity to be involved in the project decision-making process.

Project teams should consider unique methods for letting the public know there is an opportunity to participate. Some methods include;

- Contacting schools to determine if they would send notices to families with school-provided I-Pads or other electronic devices
- Variable message boards announcing the Public Hearing placed along the route
- Available bill boards along the route to announce the Public Hearing

Environmental Justice (EJ) considerations and projects on lands of tribal interest

Project teams should identify if there are EJ community leaders or agencies serving EJ populations in the project area. If there are, the project team should work with the identified person(s) to determine if there are non-traditional methods for getting information to EJ populations regarding the Virtual and In-Person Public Hearings and their opportunity for participation. This include identifying opportunities for posting meeting notices in locations frequented by EJ populations.

Along with providing non-traditional methods of participation, project teams should work with the RECs, Region Tribal Liaisons and persons representing EJ populations, as appropriate, to determine if public involvement materials should be written in languages other than English. This includes notices and presentations.

Consideration of other special outreach efforts should also be given to projects on lands of tribal interest.

Virtual Public Hearing Component Guidance

1) Timeframe of the Virtual Public Hearing component

The Virtual Public Hearing component should start no sooner than 6 pm and end through the reading of the Closing Statement no sooner than the Public Hearing end time designated in the Public Hearing legal notice.

The project team should allow some flexibility to go past the Public Hearing end time if there are participants that haven't had a chance to provide testimony and still desire to do so.

The decision to discontinue the Virtual Public Hearing component due to technical difficulties will be the responsibility of the presentation team.

2) Virtual Public Hearing component

The YouTube Live presentation format should be used to conduct the Virtual Public Hearing component. A listen-only call in number to allow attendees the opportunity to listen to the presentation should also be provided for those without internet access.

Following the greeting, a project staff member should provide a detailed explanation of the three different ways for participants to provide testimony as discussed below.

Project teams should post exhibits, handouts, the PowerPoint presentation and any other materials to be used during the Virtual Public Hearing component to the project website at the earliest point time before the possible Virtual and In-Person Public Hearing components. This will allow people to review information ahead of time in preparation for their testimony and allow those without access or ability to use YouTube Live the opportunity to follow along with the presentation.

Consideration should be made for recording the entire Virtual Public Hearing component and posting it to the project website.

3) Record of participation in the Virtual Public Hearing component

People participating in the Virtual Public Hearing Component should be instructed to provide their sign-in information through a project email address provided. They should be requested to provide:

- Name (Please Print)
- Address
- Phone
- Email (if you would like to receive future project notifications by email)
- Who They Are Representing

You will also need to provide this statement:

Please Note: The sign-in information provided (including names, addresses, phone numbers, e-mail addresses, and signatures) is not confidential, and may be subject to disclosure upon request, pursuant to the requirements of the Wisconsin open records law, sections 19.31—19.39 of the Wisconsin Statutes.

4) Project presentation

The project presentation should be developed following the Virtual Public Hearing Component Chairperson's Packet template which can be found at: **[Note: Packet template currently being finalized]**. Information to be read into the record to a court reporter should be done before the YouTube Live presentation. This should be noted during the recorded PowerPoint presentation, but it is not necessary to ask the public if they object to having done so.

It is recommended that a recorded, narrated PowerPoint presentation be used for both the Virtual and In-Person components of the Public Hearings. This will allow for the core project presentation to be recorded and posted on the project website as soon as possible before the scheduled Public Hearing dates.

For consistency, the recorded PowerPoint presentation should also include a narrated walkthrough of exhibits that will be displayed during the In-Person component or included on the project website prior to the Virtual component of the Public Hearing if possible.

For the Virtual component, an introduction including a detailed discussion on ways to provide testimony, should be done live preceding the recorded PowerPoint presentation and a brief question/answer session and brief reminder on how to provide testimony should also be done live following the recorded PowerPoint presentation.

5) Taking testimony

a) Elements for taking testimony from participants wishing to give traditional-style verbal testimony through YouTube Live following the YouTube Live project presentation and reading of information into the Public Hearing record include:

- A court reporter should be present to record the verbal portion of the YouTube Live presentation and traditional-style verbal testimony presented by participants through YouTube Live
- The YouTube Live recording of traditional-style verbal testimony will serve as a back-up
- A speakerphone should be placed close to the YouTube Live presenter and person monitoring the phone
- A microphone should be placed above the speakerphone, so all participants can hear the person providing traditional-style verbal testimony
- An email address and phone number should be included on the Public Hearing announcements, the project website, and during the YouTube Live presentation, either of which participants will use to request the opportunity to give traditional-style verbal testimony through YouTube Live **[Note: Language for the Public Hearing announcements and website is currently being finalized]**
- The Public Hearing information for the Virtual component should indicate that emails to the website provided for requesting the opportunity to give traditional-style verbal testimony through YouTube Live and phone calls will not be accepted until the YouTube Live presentation begins. As such:
 - The email address should have the out-of-office notification turned on with an explanation about not taking requests to provide testimony until the presentation starts
 - For the phone number, you should have a similar message

- The project team member reading the information into the Virtual component of the Public Hearing record should explain;
 - The process to request the opportunity to give traditional-style verbal testimony through YouTube Live
 - Participants emailing or calling to request the opportunity to give traditional-style verbal testimony through YouTube Live should provide their name, address and a call back phone number
 - You will also need to read this statement:
 - ***The information provided including name, address and phone number, e-mail addresses, and signatures is not confidential, and may be subject to disclosure upon request, pursuant to the requirements of the Wisconsin open records law, sections 19.31—19.39 of the Wisconsin Statutes.***
 - The email process includes a statement that they will receive a call-back when it is their turn
 - Participants may get a busy signal if calling in to provide call-back information, but should keep trying
 - Participants calling in to provide call-back information should not leave a message if prompted to do so, but should keep trying
 - Participants will be called back when it is their turn to provide verbal testimony
 - Participants will be limited to 3 minutes of verbal testimony
 - Questions asked during the participant's verbal testimony will not be answered
 - A court reporter will be recording the participant's verbal testimony
 - The text comment option in YouTube Live will be used to take comments during the brief question/answer period following the presentation, but will not be used for providing testimony
 - When the participant is called back, the project team member calling should;
 - Tell the participant to mute their computer because the participant could be confused by a possible 30 second time lag in the YouTube Live video on their computer and because the court reporter may not be able to understand their testimony due to background noise
 - Introduce the participant and indicate that the participant should state their name and address before beginning testimony
 - Remind the participant to hang up after providing their testimony
 - If there are no more participants interested in providing traditional-style verbal testimony, but the Public Hearing Virtual component timeframe has not ended, the court reporter can record testimony from those wishing to provide private verbal testimony as shown under b) below.
- b) Process for participants wishing to give private verbal testimony to a court reporter during the YouTube Live video
- Private verbal testimony to a court reporter should occur in a room separate from the YouTube Live presentation
 - A speakerphone should be placed close to the court reporter

- A phone number, different from the phone number provided for traditional-style verbal testimony in a) above, should be included on the Public Hearing announcements, the project website, and during the YouTube Live presentation which participants will use to request the opportunity to give private verbal testimony to a court reporter during the YouTube Live video
 - The Public Hearing information for the Virtual component should indicate that phone calls to this phone number will not be accepted until the YouTube Live presentation begins
 - The project team member reading the information into the Virtual component of the Public Hearing record should explain;
 - The phone and email process to request the opportunity to give private verbal testimony to a court reporter
 - Participants may get a busy signal if calling in to provide their call-back information, but should keep trying
 - The project team member taking the call to request the opportunity to give private verbal testimony to a court reporter should explain;
 - The participant calling to request the opportunity to give private verbal testimony during the YouTube Live presentation should provide their name, address and a call back phone number
 - The participant will be called back when it is the participant's turn to provide testimony
 - The participant will be limited to 3 minutes of testimony
 - Questions asked during the participant's testimony will not be answered
 - A court reporter will be recording the participant's testimony
 - When the participant is called back, the project team member calling should;
 - Tell the participant to mute their computer because the court reporter may not be able to understand the participant's testimony due to background noise
 - Indicate that the participant should state their name and address before beginning testimony
 - Remind the participant to hang up after providing their testimony
- c) Process for participants wishing to provide written comment or oral comment by phone outside the Public Hearing Virtual component timeframe, but during the environmental document availability period
- A project manager name, Region office address, phone number and email address, should be included on the Public Hearing announcements, the project website, and during the YouTube Live presentation which participants may use to provide written or oral comment by phone to the project manager outside the Public Hearing Virtual component timeframe, but during the environmental document availability period
 - Language should indicate that a participant wishing to provide written comment can;
 - Email comment and attachments to the email address, or,
 - Mail comment and attachments to the Region office address
 - When the Project Manager answers a call from a participant wishing to provide oral comment, the Project Manager should explain that he/she will be writing down a summary of the caller's comments for inclusion in the Public Hearing record
 - The Project Manager's voice mail should also indicate that if a participant is calling to provide oral comment about the project, that he/she will be writing down a summary of the caller's recorded comments for inclusion in the Public Hearing record

In-Person Public Hearing Component

1) Timeframe of the In-Person component of the Public Hearing

The In-Person Public Hearing component should begin no later than 3 pm and run until at least 8 pm, the day after the Virtual Public Hearing component, to allow attendees flexibility in selecting a time to participate and allow for the greatest opportunity for attendees to practice social distancing.

2) Public Hearing building entrance

Only one entrance to the building should be allowed for the In-Person Public Hearing component. Complying with the Americans with Disabilities Act accessibility requirements must occur in selection of the entrance. Signs should be posted throughout the parking lot and on sidewalks directing attendees to the entrance.

A sign should be posted outside the building entrance that:

- Requests those with COVID-19 symptoms not attend the In-Person Public Hearing component
- Encourages 6' social distancing and other COVID-19 protection recommendations

There are many examples of such signs currently available.

Sanitizer and paper towels or sanitizing wipes should be available immediately inside the building entrance. A trash bin should also be provided for depositing paper towels or wipes.

3) Greeter table

The greeter table should be located near the entrance door while still allowing for queuing of attendees if necessary.

A sign should be placed 6' from the greeter table instructing attendees to wait for the next available spot to open. Tape should be placed at 6' intervals back from the sign to aid attendees in practicing social distancing.

A project team member should be sitting at the greeter table.

The greeter is responsible for:

- Answering questions as attendees arrive
- Emphasizing patience, particularly if there are large numbers of attendees arriving at one time
- Asking the attendee to pick up a pen from the table for use during the In-Person Public Hearing component. It is important that a pen is provided to each attendee for their personal use. The pen will not be returned.
- Offering the attendee an option to pick up a facemask from the table for use during their time participating at the In-Person Public Hearing component
- Directing attendees towards the sign-in table
- Reminding attendees to practice social distancing
- Having a bottle of sanitizer and paper towel or sanitizing wipes to clean the table as items are taken by attendees.

4) Sign-in table

The sign-in table should be located a substantial distance from the entrance door. This will allow for queuing of attendees if necessary.

A sign should be placed 6' from the sign-in table instructing attendees to wait for the next available spot to open. Tape should be placed at 6' intervals back from the sign to aid attendees in practicing social distancing.

A project team member(s) should be sitting at the sign-in table.

The project team member(s) staffing the sign-in table should:

- Ask the attendee to sign-in
- Ask the attendee to take a handout from the table
- Direct the attendee to the exhibits
- Have pre-paid envelopes and extra comment forms available for attendees wishing to mail in comments
- Remind attendees to practicing social distancing
- Have a bottle of sanitizer and paper towel or sanitizing wipes to clean the table as items are taken by attendees

5) Exhibits

Exhibits should be kept to the minimum possible.

If possible, two copies of the exhibits should be positioned on opposite sides of the Public Hearing room.

Exhibits should be spaced 6' apart and should be separated by tape on the floor.

Project team members staffing the exhibits should remind attendees about the importance of social distancing if willing, but not mandate it if attendees want to discuss exhibits with friends and neighbors.

6) Video project presentation

It is recommended that a recorded, narrated PowerPoint presentation be used for both the Virtual and In-Person components of the Public Hearings. This will allow for the core project presentation to be recorded and posted on the project website as soon as possible before the scheduled Public Hearing dates.

For the In-Person component, an introduction should precede the recorded PowerPoint presentation and a detailed discussion on ways to provide testimony should be included following the recorded PowerPoint presentation.

Chairs for viewing the video should be spaced at 6' intervals in all directions.

A sign should be placed at the video project presentation to explain that the video is on continuous loop and that an attendee can start watching at any time since the presentation will start over immediately after ending.

7) Written testimony tables

- Tables with bench seating for attendees to prepare written comments should include tape spaced at 6' intervals on the bench
- Tables with chairs for attendees to prepare written comments should be spaced at 6' intervals in each direction
- Additional comment sheets and pre-paid envelopes should be available at the written testimony tables
- One box for the placement of comments sheets should be centrally located
- A project team member should be present to remind attendees about the importance of social distancing, if willing, and sanitize the area as attendees leave a table

8) Verbal testimony sign-in table

A verbal testimony sign-in table should be located near the continuous loop video with 6' spacing from the chairs positioned for viewing the presentation. A sign should be placed 6' from the verbal testimony sign-in table instructing attendees to wait for the next available spot to open. Tape should be placed at 6' intervals back from the sign to aid attendees in practicing social distancing.

A project team member should be sitting at the verbal testimony sign-in table.

The project team member staffing the verbal testimony sign-in table should:

- Ask the attendees wishing to give testimony to fill out the Registration Slip for Verbal Testimony form found in the Public Hearing Handout Packet or one available at the verbal testimony sign-in table.
- Ask the attendee if they wish to provide private verbal testimony or traditional-style testimony
- Direct the attendee to the private verbal testimony room if the attendee wishes to provide private verbal testimony and instruct the attendee to take their completed Registration Slip for Verbal Testimony form with them
- Retain their completed Registration Slip for Verbal Testimony form and direct the attendee to the microphone if the attendee wishes to provide traditional-style verbal testimony
- Pausing/unpausing the continuous loop video if someone wishes to provide traditional-style testimony, but should not be done so often as to make the video difficult to view
- Notifying the panel members that an attendee wishes to give traditional-style verbal testimony
- Announcing the name of the attendee wishing to provide traditional-style verbal testimony using their completed Registration Slip for Verbal Testimony form
- Retaining the completed Registration Slip for Verbal Testimony form of the attendee providing traditional-style verbal testimony
- Remind the attendees to practicing social distancing
- Have a bottle of sanitizer and paper towel to clean the table as items are taken by attendees
- Sanitize the microphone after an attendee completes traditional-style verbal testimony

a) Traditional-style verbal testimony

A microphone should be placed 6' from the verbal testimony sign-in table.

One court reporter should be available to record traditional-style verbal testimony for the entire In-Person component of the Public Hearing timeframe of 3 pm – 8 pm.

The project team member staffing the verbal testimony sign-in table can also direct an attendee wishing to provide private verbal testimony to this court reporter if there is no attendee wishing to give traditional-style verbal testimony.

The court reporter recording traditional-style verbal testimony should be sitting in the exhibit/video project presentation room and be located 6' from the microphone.

A minimum of two panel members should be sitting behind the table, separated 6' from each other and the court reporter. One panel member should:

- Ensure the project team member staffing the verbal testimony table pauses/restarts the continuous loop video when an attendee provides traditional-style verbal testimony
- Explain that the panel members will not be answering questions asked by the attendee, but may ask the attendee a question(s) if they believe someone reviewing the attendee's testimony might not understand what was being said
- Ask the attendee providing traditional-style verbal testimony to state their name and address before starting their testimony
- Limit the attendee providing testimony to three minutes unless there is no attendee waiting to provide traditional-style verbal testimony

b) Private verbal testimony

One court reporter should be available to take private verbal testimony for the entire In-Person component of the Public Hearing timeframe of 3 pm – 8 pm.

The court reporter should be sitting behind a table in a room separate from the exhibit/video project presentation room. A chair should be provided for the person providing private verbal testimony.

A sign should be placed outside the private verbal testimony room instructing attendees to wait for an attendee providing private verbal testimony to leave the room before entering. Tape should be placed at 6' intervals back from the sign to aid attendees in practicing social distancing.

The court reporter taking private verbal testimony should:

- Ask an attendee wishing to give private verbal testimony to place their Registration Slip for Verbal Testimony form in a tray located on the table
- Ask the attendee providing private verbal testimony to state their name and address before starting their testimony
- Limit the attendee providing testimony to three minutes unless there is no attendee waiting at the door wishing to provide private verbal testimony

One project team member should be available for sanitizing the area following an attendee's private verbal testimony.

9) Other In-Person Public Hearing component requirements

- All project team members must wear a mask, depending on conditions at the time of the In-Person component of the Public Hearing
- It is the decision of the court reporters whether to wear a mask
- Use of a plastic shield should be considered as an option at locations where project team members and other In-Person Public Hearing component staff are required to sit close to attendees if such shields are available or still recommended when the In-Person Public Hearing component is conducted
- The Opening Statement, Information for the Record, and Project Statement from the Public Hearing Chairperson's Packet should all be read into the record to a court reporter immediately upon the In-Person Public Hearing component start time
- This reading of information into the record should be noted during the recorded PowerPoint presentation, but it is not necessary to ask the public if they object to having done so
- The Closing Statement from the In-Person Public Hearing Component Chairperson's Packet template should be read into the record to a court reporter no sooner than the In-Person Public Hearing component end time designated in the Public Hearing legal notice
- The number of court reporters needed should be determined by the project team based on the total length of the In-Person Public Hearing component and need for the court reports to take breaks
- The In-Person Public Hearing Component Chairperson's Packet can be found at:
[Note: Packet template currently being finalized]