

NOTICE OF PROPOSED GUIDANCE DOCUMENT

DTIM-BPED41

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIM-BPED41, 23 CFR 450, a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIM-BPED41>

2. Mailing written comments to:

Division of Transportation Investment Management
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7913
Madison, WI 53707-7913

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsindot.gov to allow for ongoing comment.

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Wisconsin Department of Transportation

***Public Involvement Plan
for
Statewide Long-Range Transportation Plans***

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Overview of Public Involvement for Long-Range Transportation Plans

A comprehensive public involvement process is crucial to the success of any transportation planning process. It helps ensure the plans and related decisions regarding the transportation system incorporate the concerns and issues of the transportation system's users. A comprehensive process also involves gathering input from a variety of stakeholders and the general public to ensure different perspectives are heard, and related comments are incorporated into the decision making process.

Wisconsin Department of Transportation's Public Involvement Process

To help the department focus outreach activities and ensure a comprehensive approach throughout the development of a statewide Long-range Transportation Plan (LRTP), Wisconsin Department of Transportation (WisDOT) develops:

- a Public Involvement Plan;
- an Environmental Justice Plan; and
- a System-Plan Environmental Evaluation.

The **Public Involvement Plan (PIP)** describes the public involvement activities WisDOT uses during the development of a long-range transportation plan. The PIP identifies proposed strategies and techniques, as well as the length of public comment periods.

The **Environmental Justice Plan (EJP)** builds on the PIP by describing how WisDOT ensures minority and low-income group participation in the planning process. WisDOT recognizes minority and low-income groups may face obstacles to participating in the transportation planning process. The EJP targets public involvement activities and identifies meetings specifically for minority and low-income groups. The plan may also identify strategies to help inform minority and low-income citizens about the planning process such as reaching out to community-based organizations and placing meeting notices in minority newspapers.

Wisconsin DOT's Administrative Code, Trans 400 *Wisconsin Environmental Policy Act Procedures for Department Actions*, establishes rules for analyzing the environmental effects of transportation plans. Statutorily defined as the conceptual environmental evaluation, a **System-plan Environmental Evaluation (SEE)** is required during the preparation of statewide, system-level transportation plans when initial WisDOT analyses determine that the plan contains "major and significant new proposals" likely to affect the quality of the human and natural environment. The SEE does not provide the kind of quantitative detail found in project-level environmental analyses (e.g., environmental assessments, environmental impact statements), nor does it replace them. Project-level impacts are dependent on location and design decisions that are not known during the development of the LRTP and SEE analysis. The SEE looks at the policies and

recommended actions identified in the LRTP and discusses the potential environmental impacts of implementing these policies and actions in qualitative and comparative terms. In summary, whereas project-level environmental reports focus on specific individual project details, the level of analysis in the SEE is broad, covering conceptual ideas about the future of transportation in Wisconsin.

Public Involvement for State Long-Range Transportation Plans

A state Long-Range Transportation Plan (LRTP) is a document defining a vision for a state's transportation system based on a continuing, cooperative, and comprehensive planning process (commonly referred to in the transportation community as the 3-C's). Plans may focus on either individual modes or multimodal transportation needs. Typically the LRTPs focus on:

- an inventory of the transportation system's facilities and services;
- a comprehensive consideration of strategies and policies to address system needs;
- transportation options for all people including the transportation disadvantaged;
- recommendations aimed at preserving existing infrastructure and facilities and ways to improve efficiencies of the existing system;
- the collaborative participation of transportation-related agencies and organizations;
- open, timely and meaningful public involvement; and
- analysis and integration of comments to encompass the full range of interests and needs.

The development of a statewide transportation plan is required by federal planning regulations (*23 CFR 450 – Planning Assistance and Standards*) to include participation by:

- individuals;
- affected public agencies;
- representatives of public transportation employees;
- public ports, freight shippers;
- private providers of transportation (including intercity bus operators);
- representatives of users of public transportation;
- representatives of users of pedestrian walkways and bicycle transportation facilities;
- representatives of the disabled;
- providers of freight transportation services; and
- other interested parties.

WisDOT must develop and use a documented public involvement process that provides opportunities for public review and comment at the key decision points. The public participation process seeks out and considers the needs of those traditionally

underserved populations, such as low-income and minority households, who may face challenges accessing employment and other services using existing the transportation systems. The proposed public involvement process must be made available for public review and comment. At a minimum, the state shall allow 45 calendar days (23 CFR 450.210)¹ for public review and written comment before the public involvement process is adopted.² Therefore, WisDOT applies this requirement to all modal plans.

Environmental Justice Involvement/Activities

Background

WisDOT's policy incorporates environmental justice (EJ) activities in all planning, programming and projects decisions. As part of plan development, WisDOT conducts an EJ analysis on LRTPs and seek public input from a variety of stakeholders.

Environmental justice activities focus on three main principles:

- Avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations.
- Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
- Prevent the denial of, reduction of or significant delay in the receipt of benefits by minority and low-income populations.

These principles are reflected in WisDOT's EJ activities and outreach efforts. They are designed to reflect WisDOT's commitment to furthering EJ activities and outreach during the planning process.

EJ Populations

Executive Order 12898 *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* covers persons belonging to any of the following groups:

- Black – a person having origins in any of the black racial groups of Africa.
- Hispanic or Latino – a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
- Asian American – a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent.

¹ 23 CFR 450, http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title23/23cfr450_main_02.tpl

² For more guidance on public involvement see:

http://www.fhwa.dot.gov/planning/public_involvement/publications/pi_techniques/fhwahep15044.pdf

- American Indian & Alaskan Native – a person having origins in any of the original people of North America, South America or Central America and who maintains cultural identification through tribal affiliation or community recognition.
- Native Hawaiian or Other Pacific Islander - people having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.
- Low-Income – a person whose household income is at or below the U.S. Department of Health and Human Services poverty guidelines.

Goals of EJ Activities

The goals of EJ activities in the LRTP planning process include the following activities:

- Identifying minority and low-income populations across Wisconsin.
- Conducting an EJ analysis to determine if any of the Plan’s policies or actions result in significantly disproportionate impacts on EJ populations.
- Conducting outreach to engage minority and low-income populations during plan development.
- Building relationships with minority and low-income populations.

The EJ analysis may include GIS mapping and quantitative analysis techniques to compare concentrations of EJ populations with locations of potential WisDOT transportation investments to ensure plan compliance with EJ principles.

Methodology

WisDOT conducts analysis and public outreach efforts focused at a broad statewide level. Outreach efforts include discussions with minority and low-income populations regarding the Plan’s proposed policies and actions. When possible, WisDOT uses existing meetings of organizations that serve EJ populations locally. These organizations may include, but are not limited to, the YMCA/YWCA, the League of United Latin American Citizens, Wisconsin Hmong Mutual Assistance Associations, and the Urban Leagues of Milwaukee, Racine, Kenosha, Madison and Beloit.

To enhance low-income and minority population participation, efforts are made to:

- Hold meetings at transit accessible locations (when available)
- Provide translators, upon request
- Translate materials such as fact sheets and executive summaries into Spanish (other languages are typically made available, upon request)

WisDOT’s Cooperation and Consultation Processes

The federal transportation law known as Moving Ahead for Progress in the 21st Century Act (MAP-21), placed an emphasis on increased cooperation with Metropolitan Planning Organizations (MPO) and local officials in non-metropolitan areas. Cooperation is defined as “the parties involved in carrying out the transportation planning and programming

processes work together to achieve a common goal or objective” (23 CFR 450.104). Increased emphasis on cooperation continues within the 2015 Fix America’s Surface Transportation (FAST) Act legislation.

WisDOT meets with Wisconsin’s 14 Metropolitan Planning Organizations (MPO) and 9 Regional Planning Commissions (RPC) to ensure the Wisconsin LRTPs appropriately reflects the recommendations identified in the MPO and RPC long-range transportation plans. WisDOT either conducts separate meetings with the MPOs and RPCs or includes cooperation activities as part of regularly scheduled quarterly MPO and RPC director meetings.

Federal legislation requires consultation with three groups: 1) non-metropolitan local officials; 2) federal, state, and, tribal environmental, regulatory, and resource agencies; and 3) freight transportation industry representatives and providers of freight transportation services. Specifically, consultation includes a comparison of transportation plans with conservation plans or maps, if available, and inventories of natural and historic resources, if available (23 CFR 450.214(i)). MAP-21 requires the discussion of possible mitigation activities be developed in consultation with the above agencies. WisDOT holds consultation meetings with environmental regulatory and resource agencies from federal and state agencies, as well as Tribal governments.

Section 450.210(c) of 23 CFR 450 explains the state shall develop the LRTP in consultation with Tribal governments and the Secretary of the Interior using a documented process. In addition, included in section 450.216(j) of the federal planning regulations on plan content is a requirement that the plan be developed in consultation “with State, Tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.” This includes a comparison of plans, maps, and related data. Although these requirements are in separate sections of the regulations, they are very similar and usually addressed together.

While all consultation processes apply to public involvement, the individual processes may be different. The *Documentation of the Wisconsin Department of Transportation’s Process for Cooperation and Consultation with Local Officials and Tribal governments in Non-Metropolitan Areas* was updated in March 2016 and is posted on WisDOT’s Local Consultation website.³ This document provides additional information on WisDOT’s public involvement processes and practices with local officials in non-metropolitan areas.

Consultation with Indian Tribal governments

WisDOT has a unique and robust relationship with its 11 Federally-recognized Tribes. In fact, in 2013 the Federal Highway Administration (FHWA) recognized Wisconsin’s Tribal

³ Local Consultation webpage <http://wisconsindot.gov/Pages/doing-bus/local-gov/plning-orgs/local-con.aspx>

consultation efforts as a best practice in a case study, titled *Wisconsin - Tribal Consultation Process*.⁴

Following an Executive Order issued in 2004 (*EO 39 – Relating to an Affirmation of Government-to-Government Relationship Between the State of Wisconsin and the Indian Tribal governments Located Within the State of Wisconsin*), WisDOT, the Wisconsin Division of FHWA and the 11 tribes entered into a partnership agreement.. The purpose of the May 2015 agreement (revised in 2010) was to, "create and define processes by which WisDOT and FHWA work in collaboration with Wisconsin's eleven sovereign Indian Nations. The agreement acknowledges and supports the government-to-government relationship between tribes and state and federal agencies and supports American Indian sovereignty."

As part of the partnership agreement, WisDOT established the WisDOT Inter-Tribal Task Force (ITTF) that includes representatives from each tribe, WisDOT and FHWA. Part of the Task Force's goal is to define tribal consultation for transportation-related projects and planning efforts.

WisDOT consults with tribes that have ancestral homelands within the state's boundaries on all decisions that may affect Tribal rights and interests in regard to long- and short-range transportation planning. WisDOT is committed to government-to-government consultation with tribes on actions that affect identified tribal rights and issues.

Inter-Tribal Task Force

The ITTF was established through the partnership agreement to serve as a policy advisory group regarding transportation related matters that have the potential to impact tribal communities. ITTF members consist of WisDOT statewide and regional tribal liaisons and other WisDOT agency employees, the FHWA, the Bureau of Indian Affairs and representatives appointed by each respective Tribal government. The ITTF has developed numerous tribal initiatives. It meets on a bi-monthly basis and serves as a forum for long-range transportation plan consultation and for discussion of projects within the state and individual tribes' transportation improvement programs.

When WisDOT is developing a long-range transportation plan, the ITTF facilitates consultation activities between FHWA, Bureau of Indian Affairs, Tribal governments and WisDOT Bureau of Planning and Economic Development. Consultation to discuss transportation issues and needs may include:

- An initial meeting inviting Tribal leadership and representatives from the Tribal planning, roads, environmental, and historic preservation departments of all 11 Tribal Nations in Wisconsin, planning representatives from each WisDOT region, regional WisDOT tribal liaisons, the Bureau of Indian Affairs and the FHWA.

⁴ Case Study: Wisconsin - Tribal Consultation Process
https://www.fhwa.dot.gov/planning/processes/tribal/case_studies/wisconsin.cfm

- A statewide follow-up meeting to discuss the draft plan.
- A meeting at any other time as requested by individual tribes or WisDOT.

As WisDOT Regions develop their six-year highway improvement program, WisDOT regional liaisons present the short-range planning goals within WisDOT's six-year highway program and plans to the ITTF to provide tribes an opportunity to discuss issues and needs. If requested, the regional liaisons facilitate follow-up meetings between WisDOT staff and individual tribes to discuss specific projects or planning goals.

As referenced previously, the *Documentation of the Wisconsin Department of Transportation's Process for Cooperation and Consultation with Local Officials and Tribal governments in Non-Metropolitan Areas* provides additional information on the methodologies and resources available to ensure proactive consultation with WisDOT's 11 federally-recognized tribes.

Meeting Accessibility

Federal law requires that to the maximum extent practicable, public meetings should be held at locations and times that are convenient for and accessible by all people including EJ populations and people with disabilities. Further, notice of public meetings and other forms of outreach are provided through means that encourage participation by EJ populations.

Visualization Techniques

To the maximum extent possible, states are encouraged to use visualization techniques to describe the proposed Plan. WisDOT continues to use maps and graphics, whenever possible, in its planning processes. Other techniques may be used, if feasible.

Public Involvement in the State Long-Range Transportation Planning Process

Development of a LRTP typically includes a comprehensive, **four-phase process**. The process provides opportunities for public and stakeholder involvement in each of the four phases beginning with early input into the scope of the draft plan and ending with public hearing(s) on the Final Draft Plan. This approach allows the department to reflect and balance a variety of stakeholder needs and interests. The four phases include:

- Phase 1: Early planning
- Phase 2: Pre-draft plan
- Phase 3: Draft plan
- Phase 4: Final plan

Phase 1: Early planning

Prior to any outreach, WisDOT issues a Notice of Intent (NOI) with an associated comment period, which will be no less than 30 days. The NOI provides general information about the purpose and need of the plan. In Phase 1, WisDOT conducts efforts to define the scope and focus of the LRTP.

WisDOT also develops the plan specific public involvement plan (PIP). The PIP incorporates the information reflected in this LRTP PIP and specific outreach efforts tailored for the plan under development. After the comment period for the NOI closes, WisDOT will release a plan-specific Draft PIP for a 45-day comment period. This supplemental Draft PIP reviews specific outreach strategies for that LRTP.

In addition, WisDOT may conduct additional outreach, including:

- Statewide telephone surveys
- Stakeholder interviews
- Focus groups
- Stakeholder meetings

Phase 2: Pre-draft plan

Pre-draft plan development outreach efforts focus on obtaining feedback through consultation with environment resource agencies, EJ populations, and Tribal governments having a historic interest in Wisconsin. WisDOT also cooperates with Wisconsin's MPOs and RPCs in the development of their plans.

As discussed previously, the Code of Federal Regulations defines consultation requirements with environmental resource agencies and Tribal governments when preparing long-range transportation plans. WisDOT's consultation process is designed to inform environmental resource agencies and Tribal governments about plan policies and to get their feedback. The consultation process includes a discussion of potential mitigation strategies.

Phase 3: Draft plan

Phase 3 typically includes the release of the draft version of the plan for public review and comment. Upon release the draft plan, WisDOT specifies the comment period, which will be no less than 30 days. During this time, WisDOT conducts public information meetings and meetings with minority and low income groups. WisDOT also meets with various stakeholder groups, at their request. Throughout this public comment period, WisDOT accepts feedback via the Internet, e-mail, phone, U.S. mail, and in person. The comments received during this time are compiled and analyzed to determine if, and how, the plan would be revised to reflect the public's opinions. These revisions can include clarifying existing or future policy directions to more effectively explain them to the public, and refining the way existing policies are written, that they better address the public's needs.

WisDOT uses a number of tools to publicize the release of the draft plan, the times and locations of the public meetings, and the methods available for obtaining information and providing feedback. These tools may include the following:

- publishing a legal notice in the Wisconsin State Journal;
- distributing through U.S. mail;
- using media outlets (press releases);
- placing display ads in newspapers serving areas in which public meetings may be or were held;
- submitting listings to Internet event calendars for areas in which public meetings were held or may be held in the future;
- posting information through the department's social media channels;
- posting plan documents and accompanying information on WisDOT's website; and
- making copies available at WisDOT's central office, each of the region offices, and Wisconsin document depository libraries.⁵

Meetings

WisDOT holds public involvement meetings throughout the state during the comment period. WisDOT may also hold targeted outreach meetings, focused on specific stakeholder groups, as well as minority, senior, low-income persons, and other groups to ensure they had opportunities to provide input into WisDOT's decision making process.

Public involvement meetings are open to anyone and are typically organized as open houses to allow attendees to comfortably review the materials, ask questions, and provide comments at their own pace. The time and format of the targeted outreach and stakeholder meetings varies, depending on the groups' requests, needs, and availability.

The format for each of the public meetings may generally include a brief presentation on the plan, display boards presenting the plan's key points, printed review copies of the complete draft plan, and maps, as well as copies of the executive summary and fact sheets. WisDOT staff are available to present an overview of the draft plan, answer questions and take comments.

Phase 4: Final plan

WisDOT releases the Final Draft Plan for public review and comment with the publication of a legal notice in the Wisconsin State Journal. During this phase, WisDOT holds at least one public hearing on the Final Draft Plan and SEE. Notice will be provided at least 15 days prior to the date of the public hearing as required in Wisconsin Administrative Code – Trans 400.12.⁶ WisDOT also specifies the comment period, which will be no less than 30

⁵ Wisconsin Document Depository Program, <http://dpi.wi.gov/rl3/resources/wi-document-depository>

⁶ Wisconsin Administrative Code – Trans 400, https://docs.legis.wisconsin.gov/code/admin_code/trans/400

days. Public hearings include opportunities for attendees to submit oral or written testimony about the plan.

To advertise the public hearings, WisDOT typically:

- mails notices via US mail or e-mail;
- publishes display ads in the newspapers;
- issues press releases announcing the individual public hearings and the availability of the final draft plan for public comment; and
- posts plan documents and information related to the public hearings on the WisDOT website.

At the close of the public comment period, WisDOT staff review and analyze the written and oral testimony.

Summary

WisDOT understands public involvement is an important part of the LRTP planning process. WisDOT plans for the transportation needs of today and the future for the benefit of the general public and stakeholders of the State of Wisconsin. The public and stakeholders' preferences and suggestions lead to planning and plans for the future transportation systems that meet their expectations. WisDOT employs the procedures in the PIP to assure standard, fair, and consistent public and stakeholder involvement within the LRTP planning process.