

2.1. Federal Requirements

Public involvement has been an integral part of federal transportation legislation. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 federally mandated early, proactive, and sustained citizen input into transportation decision-making—with special outreach efforts targeted to traditionally underserved populations. ISTEA's directive was reinforced by the passage of the Transportation Equity Act for the 21st Century (TEA-21) in 1998, which expanded public involvement to include transit and freight. The passage of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005 placed further emphasis on aspects of public involvement and broadened the requirements to include: early outreach to governmental agencies that might become participating agencies; the addition of bicycle and pedestrian facility users and the disabled as interested parties; public meetings are to be held at convenient times and in accessible locations; and the use of electronic methods and visualization techniques to provide information to the public. Moving Ahead for Progress in the 21st Century (MAP-21) was enacted in 2012 and carried forward all of the SAFETEA-LU advancements in public participation. In 2015, the Fixing America's Surface Transportation Act (FAST Act) was signed into law and continues MAP-21's commitment to public participation.

The current public involvement requirements for state, local, and metropolitan plans and programs established by Federal legislation are found in 23 CFR 450.210 and 450.316. These regulations include the following:

- Establish early and continuous public involvement opportunities that provide timely information about transportation issues and decision making processes to 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;
- Provide reasonable public access to technical and policy information;
- Provide adequate public notice of public involvement activities and reasonable time for public review and comment at key decision points;
- Ensure that public meetings are held at convenient and accessible locations and times;
- Use visualization techniques to describe the plans and studies;
- Make public information available in electronically accessible format and means, including on the Internet;
- Demonstrate explicit consideration and response to public input during the development of the long-range statewide transportation plan and STIP;

- Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services; and
- Provide for the periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all interested parties and revise the process, as appropriate.¹

In addition to the transportation bills, the following are other federal regulations that affect how public involvement activities are planned and executed:

2.1.1. Americans with Disabilities Act

The Americans with Disabilities Act (ADA) is a civil rights statute that prohibits discrimination against people who have disabilities. The District Department of Transportation (DDOT) has a firm commitment to not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities, and will honor and work to satisfy the requirements of Title I, Title II, and Title IV of the Americans with Disabilities Act of 1990 (ADA). DDOT will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all District programs, services, and activities.

- A public entity shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the services, programs, or activities of the public entity, and make such information available to them in such manner as the head of the entity finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part. (See CFR 35.106 & 35.130)
- All public involvement's documentation and/or websites must be accessible to individuals with disabilities. Meetings must comply with all applicable ADA accessibility requirements and should also be conducted in such a way that all participants can participate in an equal and meaningful way by providing alternate formats of documents and/or additional interpretation of the documents per the request of an individual.
- All public involvement websites shall comply accessibility guidelines and with the Section 508 of the Rehabilitation Act.

2.1.2. Title VI and other Non-Discrimination Laws

Title VI, 42 U.S.C. § 2000d et. seq. ("Title VI") states that "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Age Discrimination Act of 1975

¹ Electronic Code of Federal Regulations. Title 23, Chapter 1, Subchapter E, Part 450 – Planning Assistance and Standards. Last updated August 7, 2017. Accessed at https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=23:1.0.1.5.11&idno=23#se23.1.450_12

42 USC Sections 6101-6107, prohibits federally assisted programs from discrimination based on age.

2.1.3. Executive Order 12898 – Environmental Justice (EJ)

- Directs Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations.
- Requires each agency to develop a strategy to evaluate and address environmental justice in communities.
- Promotes minority and low-income communities to access public information and engage in public participation.
- Most federal agencies have delegated EJ responsibilities to the states.

2.1.4. Executive Order 13166

- Requires Federal agencies to develop plans so that people for who are limited English proficient (LEP) can have meaningful access to the services provided to the public.
- Factors for determining when meaningful access is necessary include:
 - o the number or proportion of LEP persons in the affected area, o the frequency of contact with LEP persons,
 - o the importance of the service provided to LEP persons, and
 - o the amount of resources available.
- Meaningful communication access includes:
 - o translation of vital documents into languages other than English, and
 - o oral interpretation through translators or other interpretive services.
- The Executive Order also requires that the Federal agencies work to ensure that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.

2.1.5. Federal Laws Relating to Highways

23 United States Code (USC), Highways

- Section 109(h) requires the consideration of possible adverse effects on the human and natural environment as part of the project development process.
- Section 128 requires public hearings and consideration of environmental impacts as part of planning projects for Federally-aided highways.
- Section 135 requires participation by interested parties in the development of statewide and nonmetropolitan transportation planning.

23 CFR, Federal Highway Administration (FHWA), Department of Transportation (DOT)

- Part 450, Section 210 states that interested parties, public involvement, and consultation, requires the state to “develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points.”
- Part 771, Section 111 establishes the importance of early agency coordination and public involvement in the environmental review process. Specifically, Section 111 requires:
 - o Coordination throughout the entire National Environmental Policy Act (NEPA) process;
 - o Public involvement in the identification of social, community, economic, and environmental impacts;
 - o Public hearing(s) at convenient times and places for any project that has a substantial impact on: right of way; layout or functions of roadways or facilities; adjacent properties; or social, community, economic, or environmental resources;
 - o Reasonable notice of public hearings;
 - o Explanation during the public hearing of: project purpose and need; consistency with local plans; project alternatives and major features; social, community, economic, and environmental impacts; relocation assistance and right-of-way acquisition programs; and procedures for receiving public comments;
 - o Submission of a public hearing transcript to FHWA;
 - o Public involvement opportunities in defining the purpose and need and range of alternatives to be considered in an Environmental Impact Statement (EIS); and

Public notice and opportunity for review of Section 4(f) de minimis impact finding.

2.1.6. National Environmental Policy Act (NEPA)

- Codified in 42 USC, Chapter 55, Sections 4321-4370, this law:
 - o Requires federal agencies to consider environmental impacts as part of their planning and decision-making processes; and
 - o Established requirements for environmental impact reviews.
- 40 CFR, Chapter V, Parts 1500-1508 implement the requirements of NEPA, providing procedural provisions and administration of the NEPA process, including preparation of environmental documents, the process for inviting and documenting comments, addressing interagency disputes, and defining roles and responsibilities of agencies. This regulation sets forth all FHWA, FTA and DOT requirements under NEPA for the processing of highway and urban mass transportation projects.
- Section 1506.6 establishes the requirements for public involvement during the NEPA process, including:

- o Use of public hearings or meetings when appropriate
- o Solicitation of information from the public
- o Explanation of where information about NEPA and ongoing environmental documents can be found
- o Public review of EISs, comments received, and any supporting documents, and
- o Provision of public notice of NEPA-related hearings, public meetings, and the availability of environmental documents through direct notice to those who have requested it, publication in the Federal Register (for actions of national concern), and the following for actions that are primarily of local concern:
 - Notice to state and areawide clearinghouses
 - Notice to Native American Tribes, where appropriate
 - Implementation of the state's public notice procedures
 - Publication in local newspapers of general circulation
 - Notice through other local media
 - Notice to potentially interested community organizations
 - Publication in newsletters that may reach interested persons
 - Direct mailing to owners and occupants of affected property, and
 - Posting of notice on and off site in the area where the action is to be located.

2.1.7. Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation and Assistance and Real Property Acquisition Policies Act was created to provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects; to ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement; to ensure that no individual or family is displaced unless decent, safe and sanitary housing is available within the displaced person's financial means; to help improve the housing conditions of displaced persons living in substandard housing; and (5) to encourage and expedite acquisition by agreement and without coercion. 49 CFR Part 24 is the government-wide regulation that implements the URA and outlines the specific notification requirements.