

APPENDIX 7.2 STRATEGIES FOR INVOLVING AND NOTIFYING THE PUBLIC

The implementing regulations for NEPA contain specific requirements for public involvement when we are preparing an EIS. For some EAs the circumstances of the project may mean that additional measures (to include public scoping sessions, public review of EAs, responses to comments, and other measures normally reserved for EISs) may be appropriate.

Notification methods include, but are not limited to: newsletters, websites or online NEPA logs, bulletin boards, newspapers, and *Federal Register* notices. Ensure that all OSMRE prepared documents are compliant with section 508 of the Rehabilitation Act of 1973 before posting them to OSMRE websites.

In the case of an action with effects of national concern, notice will include publication in the *Federal Register* and notice by mail to national organizations reasonably expected to be interested in the matter. EISs have very specific notification requirements, detailed in Chapter 10.

In the case of an action with effects primarily of local concern the notice may include the following elements:

- I. Notice to State and area-wide clearinghouses pursuant to OMB Circular A- 95 (Revised).
- II. Notice to Indian tribes when effects may occur on reservations or to tribal cultural or historic resources
- III. Following the affected State's public notice procedures for comparable actions.
- IV. Publication in local newspapers (in papers of general circulation rather than legal papers).
- V. Notice through other local media.
- VI. Notice to potentially interested community organizations including small business associations.
- VII. Publication in newsletters that may be expected to reach potentially interested persons.
- VIII. Direct mailing to owners and occupants of nearby or affected property.
- IX. Posting of notice on and off site in the area where the action is to be located.

The following are recommendations for public involvement and notification for EAs and FONSIIs that we (or a state on our behalf) have prepared to address Title IV or Title V actions. Local knowledge and expertise on the specifics of the project are necessary to determine which category your project falls into, and doing more than the minimums described below is always an option. Public involvement achieved during other parts of the process (e.g., through processes involved in permit review) may achieve some of the steps described below as well.

For projects that are routine and non-controversial (either scientifically or otherwise) with no resource conflicts (e.g., T&E species impacts):

- ➔ Post the final EA and FONSI on the regional OSMRE webpage (or other page as appropriate) to make them publicly available, and/or include them in the REG 8 Oversight Documents Database (ODOcs). Ensure that all OSMRE prepared documents are compliant with section 508 before posting them to OSMRE websites.

- Ensure that known interested parties/agencies/state clearinghouses (if applicable) are notified of the availability of the documents. This may mean a direct mailing (email is fine) to these parties.

For less routine projects (i.e., where there are T&E species impacts, wetlands impacts, or any other type of resource conflict that would reasonably indicate that interest outside of OSMRE is likely):

- Post the EA and unsigned FONSI and provide a reasonable comment period (7 to 30 days depending on the complexity of the project and level of controversy) to provide the public an opportunity to review and comment on our analysis (rather than just providing them a notice of our decision via the FONSI).
- As above, ensure that known interested parties/agencies/state clearinghouses (if applicable) are adequately notified of the availability of the documents.
- In areas without widespread internet access, supplement these efforts with other media as necessary, e.g., print and radio. Publish newspaper notices of availability for the EA and unsigned FONSI. It is not necessary to publish either document in their entirety (just a notice informing the public where they can find the documents). Publish notices for a minimum of 3 days and preferably over a weekend to get the most visibility given the papers publishing schedule.

In some instances public meetings to present information and solicit comments may be helpful or appropriate for the planning effort. Hold or sponsor public meetings or public hearings whenever appropriate or in accordance with statutory requirements applicable to the agency. See procedural requirements about hearings in 455 DM 1. If you do hold public meetings or hearings, notice should be included as part of the announcement of scoping or NEPA document availability. Public meetings may be conducted in any format, but should be planned with a goal of facilitating submission of substantive comments. Hold meetings and hearings in ways that accommodate cultural traditions, values and methods of communication, e.g., interpreters should be provided when appropriate and timing of cultural events or ceremonies should be considered relative to scheduling. You must maintain records of public meetings or hearings including a list of attendees (as well as addresses of attendees desiring to be added to the mailing list) and notes or minutes of proceedings and/or any submitted comments. When practicable, you should combine NEPA public meetings with SMCRA public hearings.

Criteria for determining whether to conduct a hearing instead of a less formal meeting include whether there is:

- I. A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

Chapters 9 and 10 contain greater detail on public involvement in an EA and EIS, respectively.

Addressing and Documenting Public Comments

Comments on the document and proposed action may be received in response to a scoping notice or in response to public review of an EA and unsigned FONSI or draft EIS. Comments received at other times in the process may not need a formal response. However, all substantive comments received before reaching a decision must be considered to the extent feasible (40 CFR 1503.4). To merit a written response, comments must be substantive, timely, and recorded or in writing (including paper or electronic format or a court reporter's transcript taken at a public meetings or hearing).

The public must be notified of its privacy rights. Include the following statement in all information requesting public comment: "Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment –including your personal identifying information –may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so."

The requirements for OSMRE responses to comments differ between EAs and EISs (see chapters 9 and 10 for greater detail). When an EA and unsigned FONSI are made available for public comment, we recommend that you respond to all substantive and timely comments. You may respond to substantive, timely comments in the EA or in the decision record. If a substantive and timely comment does not lead to changes in the EA or decision, you may reply directly to the commenter. You should document your reply in either the EA or the decision record. When preparing a final EIS, you must respond to all substantive written comments submitted during the formal scoping period and public comment period.

You are not required to respond to comments that are not substantive or comments that are received after the close of the comment period, but you may choose to reply. However, be cautious about not responding to untimely comments from agencies with jurisdiction by law or special expertise. When preparing an EIS, you must obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved (40 CFR 1503.1(a)(1)). We recommend responding to comments from these agencies, even if the comments are untimely. However, you do not need to delay the preparation and issuance of a final EIS when such agencies do not comment within the prescribed time frame.

When you anticipate receiving a large number of comments, we recommend that you develop an organized system for receiving and cataloging comments before the comments start arriving. Training (formal or informal) to ensure that staff understand their responsibilities and the system's organization may be valuable. For proposals that may have a large number of comments, we recommend that you develop a systematic way to track substantive comments and OSMRE's response, such as in a searchable database. Commenters may wish to know how OSMRE responded to their comments; having a well-organized means of determining this will facilitate the process.