# Chapter 210 Public Involvement and Hearings

210.01 General
210.02 References
210.03 Definitions
210.04 Public Involvement
210.05 Public Hearings
210.06 Environmental Hearing
210.07 Corridor Hearing
210.08 Design Hearing
210.09 Limited Access Hearing
210.10 Combined Hearings
210.11 Administrative Appeal Hearing
210.12 Follow-Up Hearing
210.13 Documentation

## 210.01 General

The Washington State Department of Transportation (WSDOT) strives to keep the public informed about transportation issues, involve the public in transportation decision making, and make transportation decisions based on the public's best interests.

One of the best ways to achieve WSDOT's goals is to collaborate with the public, community groups, and various agencies. These participants often have differing, and sometimes conflicting, perspectives and interests. In addition, many participants and organizations are not able to spend the time and effort required to fully engage in transportation decision making. Despite these challenges, active collaboration:

- Gives WSDOT access to important information and new ideas.
- Puts us in a position to help solve problems and resolve conflicts.
- Creates a sense of community.
- Fosters greater acceptance of projects.
- Helps us build and sustain a credible and trusting relationship with the public.
- Ultimately leads to transportation improvements that better meet the public's needs and desires.

When collaborating with the public about transportation projects or issues, WSDOT uses more formal techniques like public hearings, direct mail, and presentations to city councils and legislators; as well as less formal but equally important techniques, like telephone and e-mail discussions, meetings with community groups, media relations, and project Internet pages.

Law requires that many types of capital transportation projects go through a formal public hearing process; thus, the legal procedures necessary for public hearings is the primary focus of this chapter. Public involvement plans are briefly discussed, and referrals to WSDOT's communications resources are included to further guide their development and implementation.

## 210.02 References

### (1) Federal/State Laws and Codes

United States Code (USC) Title 23, Highways, Sec. 128, Public hearings

USC Title 23, Highways, Sec. 771.111, Early coordination, public involvement, and project development

23 Code of Federal Regulations (CFR) 200.7, FHWA Title VI Policy

23 CFR 200.9(b)(4), Develop procedures for the collection of statistical data of participants and beneficiaries of state highway programs

23 CFR 200.9(b)(12), Develop Title VI information for dissemination to the general public

23 CFR 450.212, Public involvement

28 CFR Part 35, Nondiscrimination on the basis of disability in state and local government services

49 CFR Part 27, Nondiscrimination on the basis of disability in programs or activities receiving federal financial assistance

Americans with Disabilities Act of 1990 (ADA) (28 CFR Part 36, Appendix A)

Civil Rights Restoration Act of 1987

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

Revised Code of Washington (RCW) 47.50, Highway Access Management

RCW 47.52, Limited Access Facilities

Section 504 of the Rehabilitation Act of 1973, as amended

Title VI of the Civil Rights Act of 1964

### (2) Design Guidance

*Design Manual*, Chapter 225, for environmental references, and Division 5 chapters for access control and right of way references

*Environmental Manual*, M 31-11
www.wsdot.wa.gov/publications/manuals/m31-11.htm

WSDOT Headquarters (HQ) Development Services & Access Manager, (360) 705-7251 – home page:
www.wsdot.wa.gov/design/accessandhearings

### (3) Supporting Information

*Improving the Effectiveness of Public Meetings and Hearings*, Federal Highway Administration (FHWA) Guidebook

*Public Involvement Techniques for Transportation Decision-Making*, FHWA September 1996; provides tools and techniques for effective public involvement:
www.fhwa.dot.gov/reports/pittd/cover.htm

Relocation brochures: www.wsdot.wa.gov/realestate

WSDOT *Communications Manual* for public involvement:
www.wsdot.wa.gov/Communications/

WSDOT Context Sensitive Solutions Internet site and national context sensitive site:
http://www.wsdot.wa.gov/design/policy/csdesign
www.contextsensitivesolutions.org/

## 210.03 Definitions

***affidavit of publication*** A notarized written declaration stating that a ***notice of hearing*** (or ***notice of opportunity for a hearing***) was published in the legally prescribed manner.

***affidavit of service by mailing*** A notarized written declaration stating that the limited access hearing packet was mailed at least 15 days prior to the hearing and entered into the record at the hearing.

***auxiliary aids and services*** (1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, open and closed captioning, telecommunications devices for deaf persons (TDDs), videotext displays, or other effective methods for making aurally delivered materials available to individuals with hearing limitations; (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments; (3) Acquisition or modification of equipment or devices; (4) Other similar services and actions; and (5) Providing and disseminating information, written materials, and notices in languages other than English, where appropriate.

***context sensitive solutions (CSS)*** *A collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting and preserves scenic, aesthetic, historic, and environmental resources while maintaining safety and mobility. CSS is an approach that considers the total context within which a transportation improvement project will exist.** (See 210.02 and 210.04(2) for more information.)

*From *"Understanding Flexibility in Transportation Design – Washington,"* WSDOT, April 2005

***court reporter*** A person with a license to write and issue official accounts of judicial or legislative proceedings.

***findings and order*** A document containing the findings and conclusions of a limited access hearing approved by the Assistant Secretary, Engineering & Regional Operations (see 210.09(12) and (13)).

***hearing*** An assembly to which the public is invited and at which participation is encouraged. Types of hearings include:

- ***administrative appeal hearing*** A formal process whereby a property owner may appeal WSDOT's implementation of access management legislation. The appeal is heard by an administrative law judge (ALJ), who renders a decision. (See Chapter 540 for administrative appeal hearing procedures.)

- ***combined hearing*** A hearing held when there are public benefits to be gained by combining environmental, corridor, design, and/or limited access subjects.
- ***corridor hearing*** A formal or informal hearing that presents the corridor alternatives to the public for review and comment before a commitment is made to any one route or location. This type of hearing is beneficial for existing corridors with multiple Improvement projects programmed over a long duration.
- ***design hearing*** A formal or informal hearing that presents the design alternatives to the public for review and comment before the selection of a preferred alternative.
- ***environmental hearing*** A formal or informal hearing documenting that social, economic, and environmental impacts have been considered and that public opinion has been solicited.
- ***limited access hearing*** A formal hearing that gives local public officials, owners of abutting properties, and other interested persons an opportunity to be heard about the limitation of access to the highway system.
- ***formal hearing format*** A hearing conducted by a moderator using a formal agenda, overseen by a hearing examiner, and recorded by a court reporter, as required by law. Limited access hearings require the use of the formal hearing format (see 210.05(3)).
- ***informal hearing format*** A hearing where oral comments are recorded by a court reporter, as required by law. An informal hearing often uses the "open house" format (see 210.04(1)(a)). A formal agenda and participation by a hearing examiner are optional.

***hearing agenda*** An outline of the actual public hearing elements, used with formal hearings. (See 210.05(9)(a) for contents.)

***Hearing Coordinator*** The Development Services & Access Manager within the HQ Access and Hearings Section, (360) 705-7251.

***hearing examiner*** An administrative law judge from the Office of Administrative Hearings, or a WSDOT designee, appointed to moderate a hearing.

***hearing script*** A written document of text to be presented orally by department representatives at a hearing.

***hearing summary*** Documentation prepared by the region and approved by Headquarters that summarizes environmental, corridor, and design hearings. (See 210.05(10) for content requirements.)

***hearing transcript*** A document prepared by the court reporter that transcribes verbatim all oral statements made during the hearing, including public comments. This document becomes part of the official hearing record.

***NEPA*** National Environmental Policy Act.

***notice of appearance*** A form provided by WSDOT for anyone wanting to receive a copy of the findings and order and the adopted limited access plan (see 210.09(3) and (8)).

***notice of hearing*** (or ***hearing notice***) A published advertisement that a public hearing will be held.

***notice of opportunity for a hearing*** An advertised offer to hold a public hearing.

***order of hearing*** The official establishment of a hearing date by the Director & State Design Engineer, Development Division.

***prehearing packet*** A concise, organized collection of all necessary prehearing data, prepared by the region and approved by the HQ Development Services & Access Manager prior to the hearing (see 210.05(4) and Exhibit 210-3).

***project management plan*** A formal, approved document that defines how the project is executed, monitored, and controlled. It may be in summary or detailed form and may be composed of one or more subsidiary management plans and other planning documents. For further information, see the *Project Management Online Guide*: http://www.wsdot.wa.gov/projects/projectmgmt/pmog.htm

***public involvement plan*** A plan to collaboratively involve the public in decision making, tailored to the specific needs and conditions of a project and the people and communities it serves. It is often part of a broader communications plan.

***relocation assistance program*** A program that establishes uniform procedures for relocation assistance that will ensure legal entitlements and provide fair, equitable, and consistent treatment to persons displaced by WSDOT-administered projects, as defined in the *Right of Way Manual*.

***résumé*** An official notification of action taken by WSDOT following adoption of a findings and order (see 210.09(14)).

***SEPA*** State Environmental Policy Act.

***study plan*** A term associated with environmental procedures, this plan proposes an outline or "road map" of the environmental process to be followed during the development of a project that requires complex NEPA documentation. (See 210.06 and the *Environmental Manual*.)

## 210.04 Public Involvement

Developing and implementing an effective plan for collaboration with the public:

- Is critical to the success of WSDOT's project delivery effort.
- Provides an opportunity to understand and achieve diverse community and transportation goals.

Effective public involvement must begin with clearly defined, project-related goals that focus on specific issues, specific kinds of input needed, and specific people or groups that need to be involved. The more detailed a public involvement plan, the greater its chances of obtaining information WSDOT can use in decision making.

Transportation projects with high visibility or community issues or effects often attract the attention of a broad range of interested people. These types of projects will best benefit from early public involvement, which can influence the project's success and community acceptance.

Developing a profile (through demographic analysis) of the affected community is critical to achieving successful public involvement and should be the first order of business when developing a public involvement plan. The profile will enable the department to tailor its outreach efforts toward the abilities and needs of the community.

Individuals from minority and ethnic groups and low-income households, who are traditionally underserved by transportation, often find participation difficult. While these groups form a growing portion of the population, particularly in urban areas, historically they have experienced barriers to participation in the public decision-making process and are therefore underrepresented. These barriers arise from both the historical nature of the public involvement process and from cultural, linguistic, and economic differences. For example, a community made up of largely senior citizens (with limited mobility/automobile usage) may mean:

- Meetings/open houses are planned in locations easily accessible to them, such as senior centers and neighborhood community centers.
- Meetings are scheduled in the mornings or midday to accommodate individuals who prefer not to leave home after dark.
- Meetings are scheduled in the evenings to accommodate persons who work during the day.

A project's affected area might consist of a population with limitations in speaking or understanding English. This may entail:

- Developing/disseminating materials in other languages, as appropriate.
- Having a certified translator on hand at the meetings.

Extra effort may be needed to elicit involvement from people unaccustomed to participating in the public involvement process. They often have different needs and perspectives than those who traditionally participate in transportation decision making, and they may have important, unspoken issues that should be heard. They not only may have greater difficulty getting to jobs, schools, recreation, and shopping than the population at large, but also they are often unaware of transportation proposals that could dramatically change their lives.

NEPA and SEPA environmental policies and procedures are intended to provide relevant environmental information to public officials, agencies, and citizens, and allow public input to be considered before decisions are made. There are also various other laws, regulations, and policies that emphasize public involvement, including 23 CFR, Title VI of the Civil Rights Act, the Americans with Disabilities Act, and Executive Orders 12898 and 13166.

WSDOT's collaborative process with the public should be open, honest, strategic, consistent, inclusive, and continual. Initiating a project in an atmosphere of collaboration and partnership can go a long way toward providing equal opportunities for all parties (local, state, tribal, private, nonprofit, or federal) to participate in a project vision. This collaboration requires an intensive communications effort that is initiated during project visioning and extends through construction and eventual operation of the facility.

Department specialists in public communications, environmental procedures, traffic engineering, real estate services, and limited access control are routinely involved with public outreach efforts and project hearings. Depending on the scale and complexity of a project, the region is encouraged to engage the participation of interdisciplinary experts when developing a public involvement plan and communicating project details.

### (1) Public Involvement Plan

The region develops a public involvement plan for its own use and guidance. To engage the public, share the decision-making process, identify issues, and resolve concerns, the region communicates with the affected community through group presentations, open house meetings, newspaper articles, fliers, and other methods. The public involvement plan includes methods that will elicit the best participation from the community, including traditionally underrepresented groups.

Developing an effective public involvement plan is a strategic effort. WSDOT must identify audiences, messages, strategies, and techniques that will meet the unique needs of a proposed transportation project, as well as the needs of the public.

The ultimate goal of the public involvement plan is to allow members of the public opportunities throughout the process to:

- Learn about the project.
- Provide information and options.
- Collaborate.
- Provide input intended to influence WSDOT decisions.

The plan will outline ways to identify and involve the communities affected by the project; provide them with accessible information through reader-friendly documents, graphics, plans, and summaries; and involve them in decision making.

An effective public involvement plan:

- Is tailored to the project.
- Encourages interactive communication.
- Demonstrates to residents that their input is valued and utilized.
- Includes all affected communities.
- Identifies and resolves issues early in the project development process.
- Ensures public access to relevant and comprehensible information.
- Informs the public of the purpose, need for, and benefits of the proposed action.
- Informs the public about the process that will be used to make decisions.
- Gains public support.
- Provides equal opportunity, regardless of disability, race, national origin, color, gender, or income.

The region Communications and Environmental offices can provide expertise in developing a public involvement plan tailored to a specific project. The HQ Access and Hearings Section specializes in procedures for public hearings. Real Estate Services personnel can provide expertise regarding acquisition, relocation assistance, and other related programs. Enlisting the support of these groups is essential to the success of WSDOT projects.

WSDOT recognizes local, state, federal, and tribal staff and elected officials as active sponsors of proposed projects. Those officials might help develop and implement the public involvement plan. Early and continued contact with these resources is key to the success of a project.

The public involvement plan might include:

- Objectives.
- Strategies.
- Tactics (or a list of proposed activities).
- Proposed time schedule to accomplish each project.
- Methods to track public comments.
- Methods used to consider comments during the decision-making process, including follow-up procedures.
- Personnel, time, and funds needed to carry out the plan.
- Identification of the project partners and stakeholders.

Early use of demographics can help identify the public to be involved. After identification, a variety of methods can be chosen to encourage the most effective public involvement. This might include (directly or indirectly) any or all of the following:

- Adjacent property owners and tenants
- Indian tribes
- Low-income groups
- Minority groups
- Cooperating and participating agencies
- Local, state, and federal government staff and elected officials
- Community groups such as clubs, civic groups, business groups, environmental groups, labor unions, disability advocacy groups, and churches
- Commuters and the traveling public
- Emergency and utility service providers
- Adjacent billboard owners and clients
- The general public and others known to be affected
- Others expressing interest

The following are examples of common outreach methods:

- Public and open house meetings
- Drop-in information centers or booths
- Advisory committee meetings
- Design workshops
- Meetings with public officials
- Individual (one-on-one) meetings
- Meetings with community groups
- Project Internet pages
- WSDOT project e-mail alert lists
- Surveys
- Questionnaires
- Telephone hot lines
- Using established media relations and contacts
- Internet blogs
- Direct mail

- Individual e-mails and letters
- Advisory committees and groups
- Public hearings

(a) **Public Meetings and Open Houses**

Public meetings range from large informational workshops to small groups using one-on-one meetings with individuals. They are less formal than hearings. The region evaluates the desired outcome from a meeting, decides how the input will be tracked, and then plans accordingly.

- Open house meetings can be effective for introducing a project to the public and stimulating an exchange of ideas.
- Small meetings are useful for gaining information from community groups, underrepresented groups, neighborhood groups, and advisory committees.
- Workshop formats, where large groups are organized into small discussion groups, serve to maximize the participation of all attendees while discouraging domination by a few groups or individuals.

(b) **Follow-Up Procedures**

Effective public involvement is an ongoing collaborative exchange, and it is necessary to provide follow-up information several times during a large project to maintain a continuing exchange of information.

At significant stages, the region provides information about the project. Follow-up information conveys, as accurately as possible, how public input was considered during development of the project.

It may become necessary to revise the public involvement plan as the project evolves, conditions change, oppositional groups emerge, or new issues arise. Sometimes innovative methods must be used to ensure the inclusion of affected community members. This is especially important for underrepresented groups, such as minority and low-income groups, and in communities where a significant percentage of the affected population does not speak English. Consider the need for translators, interpreters, and providing written information in languages other than English. Reference information on limited English proficiency is provided in 210.04(2)(d). A resident advisory committee can often help identify community issues and concerns as well as recommend effective methods for public involvement.

## *(2) Public Involvement References*

Following are a number of recommended publications, references, and training courses available to assist regions in developing public involvement plans for their projects.

(a) **WSDOT Project Management Online Guide**

A project's public involvement plan is an essential element of the overall project management plan. The WSDOT *Project Management Online Guide* is an Internet resource intended to support delivery of transportation projects through effective project management and task planning. The guide includes best practices, tools, templates, and examples to enhance the internal and external communication processes: www.wsdot.wa.gov/projects/projectmgmt/onlineguide/preconstruction.htm

(b) **WSDOT Communications Intranet Page**

The WSDOT Communications Intranet page provides guidance for effective communications. This resource includes a *Communications Manual*, key messaging, and WSDOT's communications philosophy, and is an excellent resource for developing a public involvement plan:
http://wwwi.wsdot.wa.gov/communications/

(c) **Context Sensitive Solutions and Community Involvement**

A proposed transportation project must consider both its physical aspects as a facility serving specific transportation objectives and its effects on the aesthetic, social, economic, and environmental values within a larger community setting. context sensitive solutions is a collaborative, interdisciplinary approach that involves the community in the development of a project. WSDOT's philosophy encourages collaboration and consensus-building as highly advantageous to all parties to help avoid delays and other costly obstacles to project implementation. WSDOT endorses the context sensitive solutions approach for all projects, large and small, from early planning through construction and eventual operation of the facility. For further information, see WSDOT Executive Order E 1028 on context sensitive solutions:
http://wwwi.wsdot.wa.gov/publications/policies/fulltext/1028.pdf
http://www.wsdot.wa.gov/design/policy/csdesign.htm
http://www.wsdot.wa.gov/design/policy/csdesignresources.htm

Additionally, the following HQ Design, Highways and Local Programs, and Environment Internet pages offer an excellent array of publications, training, and resources for public involvement:
www.wsdot.wa.gov/environment/ej/

(d) **Federal Highway Administration References**

*Improving the Effectiveness of Public Meetings and Hearings*, FHWA Guidebook, provides a variety of techniques and processes based on the practical community involvement experience of its authors:
www.ntl.bts.gov/docs/nhi.html

*Public Involvement Techniques for Transportation Decision-Making*, FHWA September 1996, provides tools and techniques for effective public involvement:
www.fhwa.dot.gov/reports/pittd/cover.htm

*How to Engage Low-Literacy and Limited-English-Proficiency Populations in Transportation Decisionmaking*, FHWA 2006, provides tools and techniques for identifying and including these populations:
www.fhwa.dot.gov/hep/lowlim/index.htm

23 CFR 630, Subpart J, Final Rule on Work Zone Safety and Mobility, Work Zone Public Information and Outreach Strategies. This Internet guide is designed to help transportation agencies plan and implement effective public information and outreach campaigns to mitigate the effects of road construction work zones:
www.ops.fhwa.dot.gov/wz/info_and_outreach/index.htm

### (3) Legal Compliance Statements

All public announcements shall include the required statements relative to the Americans with Disabilities Act of 1990 (ADA) and Title VI legislation. The region Communications Office and the HQ Communications Office Intranet page can provide the current version of both of these statements for legal compliance.

(a) **ADA Compliance**

The ADA and Section 504 of the Rehabilitation Act require WSDOT to inform the general public of its obligation to ensure programs and activities are accessible to and usable by persons with disabilities. For publications, the notice must provide a way to obtain the materials in alternative formats (such as Braille or taped). For public meetings and hearings, the notice must inform the public that reasonable accommodations can be made for a variety of needs.

The public meeting/hearing facility must always meet minimum ADA accessibility standards (such as ramps for wheelchair access, wide corridors, and accessible rest rooms). Additionally, WSDOT must provide, upon request, reasonable accommodations to afford equal access for persons with disabilities to information, meetings, and so on. Reasonable accommodations can include services and auxiliary aids such as qualified interpreters, transcription services, assistive listening devices for persons who are deaf or hard of hearing, or additional lighting for persons with visual impairments. The WSDOT Office of Equal Opportunity can provide assistance for reasonable accommodation provisions.

(b) **Title VI of the Civil Rights Act**

Title VI of the Civil Rights Act of 1964 requires that WSDOT inform the general public of its obligation to ensure that no person shall, on the grounds of race, color, national origin and/or sex, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities.

## 210.05 Public Hearings

By state and federal law, certain capital transportation projects propose actions that require a public hearing. The remainder of this chapter provides guidance on public hearing procedures.

The common types of public hearings associated with WSDOT projects include environmental, design, corridor, and limited access hearings, which are discussed in subsequent sections. The guidance in this chapter covers project actions that trigger a hearing and the procedures for effectively planning, conducting, and completing the hearing process.

The different types of public hearings follow similar steps for planning and preparation of project materials and information. These steps facilitate efficient reviews and approvals required for the hearing to proceed as planned. Special attention to the scheduling of deliverables and notifications leading up to the hearing help the process progress smoothly.

Public hearing formats are either *formal* or *informal*. Limited access hearings are always conducted as formal hearings. An informal process can be used for most other hearings.

Hearings are often conducted in accordance with NEPA/SEPA procedures for public involvement during the environmental documentation phase of the project. The region reviews the requirements for hearings during the early stages of project development and before completion of the draft environmental documents.

### (1) Coordinating the Hearing

Preparing for and conducting a successful public hearing requires considerable coordination and effort. The best way to do this is by establishing a support team to identify and carry out the tasks and arrangements. It is crucial to identify and schedule tasks and deliverables well in advance of a public hearing. A project team might enlist the support of region specialists from Communications, Environmental, Government Relations, Right of Way, Real Estate, and Traffic offices, as well as the HQ Hearing Coordinator, HQ NEPA Policy staff, Office of Equal Opportunity, and others involved with the project. The following exhibits and narrative help identify whether a public hearing is required and how to prepare.

### (2) Selecting the Hearing Type

By law, certain project actions or proposed conditions require that specific types of public hearings are conducted. Exhibit 210-1 identifies project conditions and their associated hearing requirements. If one or more of the conditions in Exhibit 210-1 occurs, a notice of opportunity for a hearing is required by federal and state law (USC Title 23 §771.111 and RCW 47.52) and by WSDOT policy. Consult the Hearing Coordinator in the HQ Access and Hearings Section, as well as project environmental specialists, for hearing requirements.

### (3) Selecting the Hearing Format

The types of public hearing formats used by WSDOT are known as formal and informal. Hearing formats are different than hearing types. In some cases, the hearing type will dictate the required format, such as with limited access hearings. The following text and Exhibit 210-2 provide guidance on formats.

#### (a) Formal Hearings

A formal hearing is conducted by a moderator using a formal agenda, overseen by a hearing examiner, and recorded by a court reporter, as required by law. Limited access hearings and administrative appeal hearings require the use of the formal hearing format. For projects that require a formal public hearing, it is common for WSDOT to hold a public open house preceding the hearing.

The following are required for all formal hearings:

- Hearing notice with a fixed time and date (see 210.05(5) and (6))
- Fixed agenda and script
- Hearing examiner
- Hearing moderator (may be the hearing examiner)
- Court reporter

- Specified comment period
- Hearing summary (see 210.05(10))

In addition to providing oral comments, people can write opinions on the comment forms available at or after the hearing and submit them before the announced deadline.

(b) **Informal Hearings**

An informal hearing is also known as an open format hearing. Individual oral comments are recorded by a court reporter. The presence of a hearing examiner and a formal agenda are optional.

These events are typically scheduled for substantial portions of an afternoon or evening so people can drop by at their convenience and fully participate. Activities usually include attending a presentation, viewing exhibits, talking to project staff, and submitting written or oral comments.

The following items are features of an open format (or informal) hearing:

- They can be scheduled to accommodate people's work schedules.
- Brief presentations about the project and hearing process are advertised at preset times in the hearing notice. Presentations can be live, videotaped, or computerized.
- Agency or technical staff is present to answer questions and provide details of the project.
- Information is presented buffet-style, allowing participants access to specific information.
- Graphics, maps, photos, models, videos, and related documents are frequently used.
- People have the opportunity to clarify their comments by reviewing materials and asking questions before commenting.
- People can comment formally before a court reporter, or they can write opinions on comment forms and submit them before the announced deadline.

## *(4) Hearing Preparation*

When region staff have determined that a formal or informal public hearing will be held, they should contact the HQ Hearing Coordinator to discuss preliminary details. The HQ Hearing Coordinator specializes in assisting with preparations for the hearing and will usually attend. Other WSDOT groups involved with the project and tasked with developing and implementing the public involvement plan can assist with hearing preparations and provide assistance at the hearing.

The exhibits in this chapter can be used as checklists to identify important milestones and work products needed. Important elements include setting an initial target date for the hearing and agreeing on staff roles and responsibilities at the hearing.

(a) **Setting the Hearing Date and Other Arrangements**.

The Director & State Design Engineer, Development Division, sets the hearing date at the recommendation of the HQ Hearing Coordinator. This is known as the order of hearing. Final arrangements for the hearing date can be handled by telephone or brief check-in meetings between the HQ Hearing Coordinator and the region.

The region proposes a hearing date based on the following considerations:

- Convenient for community participation. Contact local community and government representatives to avoid possible conflict with local activities. Consider times and locations that are most appropriate for the community.
- For corridor and design hearings, at least 30 days after circulation of the draft environmental impact statement (DEIS) or the published notice of availability of any other environmental document.
- In most cases, more than 45 days after submittal of the prehearing packet.

The region makes other arrangements as follows:

- Reviews the location of the hearing hall to ensure it is easily accessed by public transportation (whenever possible), convenient for community participation, and ADA accessible.
- Arranges for a court reporter.
- Requests that the HQ Hearing Coordinator provide a hearing examiner for all limited access hearings and for other hearings, if desired.
- Develops a hearing agenda for all limited access hearings and for other types of hearings, if desired.
- If requested in response to the hearing notice, provides communication auxiliary aids and other reasonable accommodations required for persons with disabilities. Examples include interpreters for persons who are deaf; audio equipment for persons who are hard of hearing; language interpreters; and the use of guide animals and Braille or taped information for persons with visual impairments.
- All public hearings and meetings require the development of procedures for the collection of statistical data (race, color, sex, and national origin) on state highway program participants and beneficiaries such as relocatees, impacted citizens, and affected communities. Public Involvement Forms should be available for meeting attendees to complete. This form requests attendees to provide information on their race, ethnicity, national origin, and gender. It is available in English, Spanish, Korean, Russian, Vietnamese, Tagalog, and Traditional and Simplified Chinese at:
  www.wsdot.wa.gov/equalopportunity/PoliciesRegs/titlevi.htm
- If demographics indicate that 5% or 1000 persons or more in the affected project area speak a language other than English, vital documents, advertisements, notices, newspapers, mailing notices, and other written and verbal media and informational materials may need to be translated into other languages to ensure social impacts to communities and people are recognized and considered throughout the transportation planning and decision-making process. In addition, language interpreters may need to be present during the hearings or public meetings to ensure individuals and minority communities are included throughout the process.

(b) **Developing the Prehearing Packet**

The region prepares a prehearing packet, which contains an organized grouping of project information to be used at the hearing. The project team members and specialists enlisted to support the public involvement and hearing processes typically coordinate to produce the prehearing packet elements. Much of the information needed in the prehearing packet will come from the project's public involvement plan.

The following information is included in the prehearing packet:

1. **Project Background Information and Exhibits**

   A project vicinity map and pertinent plans and exhibits for the hearing. The prehearing packet also contains a brief written narrative of the project. Usually, this narrative is already prepared and available in Project File documents, public involvement plans, or on a project Internet page.

2. **Proposed Hearing Type, Format, and Logistics**

   The prehearing packet identifies the type of hearing required. A hearing support team provides various planning details and helps with arrangements (date, time, place, and announcements). A public open house is often scheduled on the same day, preceding a formal hearing, to provide opportunity for community involvement.

3. **News Release**

   The region Communications Office can assist in preparing announcements for the hearing and other public events.

4. **Legal Hearing Notice**

   Notices must contain certain legal statements provided by the HQ Access and Hearings Section. (See 210.05(5) and (6) for guidance on notices.)

5. **List of Newspapers and Other Media Sources**

   These are the media sources used to announce the hearing. The region Communications Office has developed relations with reporters and media outlets, including minority publications and media, and is accustomed to working these issues. Enlist the office's support for hearing preparations.

6. **List of Legislators and Government Agencies Involved**

   Special notice is sent to local officials and legislators announcing public hearings. At formal hearings, the moderator and agenda typically identify those officials so they can interact with the public. The HQ Government Relations Office can assist with identifying and notifying legislators and key legislative staff within the project area.

7. **The Hearing Agenda and Script**

   These are required for formal hearings and are prepared by the region. The HQ Access and Hearings Section can provide sample agendas and scripts to support the region in its hearing preparations.

Exhibit 210-3 provides a checklist of prehearing packet contents, including additional items needed for limited access hearings.

(c) **Preparing and Sending a Prehearing Packet**

You should prepare a prehearing packet at least 45 days in advance of the public hearing and send it to the HQ Access and Hearings Section. The HQ Hearing Coordinator reviews and concurs with the region's plans and recommends the Director & State Design Engineer, Development Division's approval of the hearing date. Headquarters concurrence with the prehearing packet typically requires two weeks after receipt of the information.

### *(5) Public Hearing Notices: Purpose and Content*

There are two types of public notices for hearings: notice of hearing and notice of opportunity for a hearing. Consult the HQ Hearing Coordinator for specific project hearing requirements and implementation strategies.

(a) **Notice of Hearing**

A notice of hearing is prepared and published when a hearing is required by law and cannot be waived.

(b) **Notice of Opportunity for a Hearing**

In select cases, a notice of opportunity for a hearing is prepared and published in order to gauge the public's interest in having a particular hearing. This kind of notice is only used if the requirements for a hearing can be legally waived. In these cases, documentation is required as set forth in 210.05(7).

(c) **Content Requirements**

The HQ Access and Hearings Section provides sample notices to the region upon request. Public notices include statements that are required by state and federal statutes. Some important elements of a notice include the following:

- A map or graphic identifying project location and limits.
- For a notice of opportunity for a hearing, include the procedures for requesting a hearing and the deadline, and note the existence of the relocation assistance program for persons or businesses displaced by the project.
- For an environmental, corridor, design, or combined corridor-design hearing, or for a notice of opportunity for a hearing, announce the availability of the environmental document and accessible locations.
- Project impacts to wetlands; flood plains; prime and unique farmlands; Section 4(f), 6(f), or 106 properties; endangered species or related habitats; or affected communities.
- Information on any associated prehearing presentation(s).
- Americans with Disabilities Act and Title VI legislation statements.

### *(6) Publishing Hearing Notices: Procedure*

To advertise a legal notice of hearing or a notice of opportunity for a hearing, use the following procedure for appropriate media coverage and timing requirements:

(a) **Headquarters Concurrence**

As part of the prehearing packet, the region transmits the proposed notice and a list of the newspapers in which the notice will appear to the HQ Hearing Coordinator for concurrence prior to advertisement.

(b) **Region Distribution of Hearing Notice**

Upon receiving Headquarters concurrence, the region distributes copies of the hearing notice and news release as follows:

- Send a copy of the hearing notice and a summary project description to appropriate legislators and local officials one week before the first publication of a hearing notice. Provide the HQ Government Relations Office with a copy of all materials that will be distributed to legislators, along with a list of legislative recipients.
- Advertise the hearing notice in the appropriate newspapers within one week following the mailing to legislators. The advertisement must be published in a newspaper with general circulation in the vicinity of the proposed project or with a substantial circulation in the area concerned, such as foreign language and local newspapers. If affected limited-English-proficient populations have been identified, other foreign language newspapers may be appropriate as well. The legal notices section may be used or, preferably, a paid display advertisement in a prominent section of the newspaper, such as the local news section. With either type of advertisement, request that the newspaper provide an affidavit of publication.
- Distribute the project news release to all appropriate news media about three days before the first publication of a hearing notice, using newspapers publishing the formal advertisement of the notice.
- Additional methods may also be used to better reach interested or affected groups or individuals, including notifications distributed via project e-mail lists, ads in local community news media, direct mail, fliers, posters, and telephone calls.
- For corridor and design hearings, the first notice publication must occur at least 30 days before the date of the hearing. The second publication must be 5 to 12 days before the date of the hearing (see Exhibit 210-4). The first notice for a corridor or design hearing shall not be advertised prior to public availability of the draft environmental document.
- For limited access and environmental hearings, the notice must be published at least 15 days prior to the hearing. The timing of additional publications is optional (see Exhibit 210-5).
- For a notice of opportunity for a hearing, the notice must be published once each week for two consecutive weeks. The deadline for requesting a hearing must be at least 21 days after the first date of publication and at least 14 days after the second date of publication.
- A copy of the published hearing notice is sent to the HQ Hearing Coordinator at the time of publication.

(c) **Headquarters Distribution of Hearing Notice**

The HQ Hearing Coordinator sends a copy of the notice of hearing to the Transportation Commission, Attorney General's Office, HQ Communications Office, and FHWA (if applicable).

For a summary of the procedure and timing requirements, see Exhibit 210-4 (for environmental, corridor, and design hearings) or Exhibit 210-5 (for limited access hearings).

### *(7) No Hearing Interest: Procedure and Documentation*

As described in 210.05(5), in select cases the region can satisfy certain project hearing requirements by advertising a notice of opportunity for a hearing. This procedure can be beneficial, particularly with limited access hearings in cases where very few abutting property owners are affected. If no hearing requests are received after issuing the notice of opportunity, the following procedures and documentation are required to waive a hearing.

(a) **Corridor or Design Hearing**

If no requests are received for a corridor or design hearing, the region transmits a package, which includes the notice of opportunity for a hearing, the affidavit of publication of the notice, and a letter stating that there were no requests for a hearing, to the HQ Access and Hearings Section.

(b) **Limited Access Hearing**

When a notice of opportunity for a hearing is used to fulfill the requirements for a limited access hearing and there are no requests for a hearing, the following steps are taken:

- The region must secure signed hearing waivers from every abutting property owner whose access rights will be affected by the project, as well as the affected local agency. The HQ Access and Hearings Section can supply a sample waiver to the region.
- The Project Engineer must contact every affected property owner of record (not tenant) and the local agency to explain the proposed project. This explanation must include information on access features, right of way acquisition (if any), and the right to a hearing. Property owners must also be advised that signing the waiver will not affect their right to fair compensation for their property, nor will it affect their access rights or relocation benefits.
- The region transmits the original signed waivers to the HQ Access and Hearings Section, along with the affidavit of publication of the notice of opportunity for a limited access hearing and a recommendation for approval of the right of way plan. Once the completed package is received by the HQ Access and Hearings Section, it is submitted to the Director & State Design Engineer, Development Division, for review and approval.

(c) **Environmental Hearing**

Environmental hearings cannot use the process of waivers to satisfy project hearing requirements.

### *(8) Prehearing Briefs and Readiness*

After publication of a hearing notice, the region should expect to receive public requests for information and project briefings, including requests for information in languages other than English.

(a) **Presentation of Material for Inspection and Copying**

The information outlined in the hearing notice and other engineering and environmental studies, as well as information intended to be presented at the hearing, must be made available for public review and copying throughout

the period between the first advertisement and the approval of the hearing summary or findings and order. The information may also need to be available in languages other than English if indicated by demographics. The information need not be in final form, but it must include every item currently included in the hearing presentation. The environmental documents must also be available for public review.

These materials are made available in the general locality of the project. The region reviews the variables (the locations of the Project Office and project site; the interested individuals; and the probability of requests for review) and selects a mutually convenient site for the presentation of the information. In accordance with RCW 42.56, a record should be kept for future evidence, stating who came in, when, and what data they reviewed and copied.

(b) **Hearing Briefing**

On controversial projects, the HQ Hearing Coordinator arranges for a briefing (held before the hearing) for those interested in the project. Attendants typically include appropriate Headquarters, region, and FHWA personnel, with special notice to the Secretary of Transportation. Region personnel present the briefing.

(c) **Prehearing Presentation**

The region is encouraged to give an informal presentation to the public for discussion of the project prior to the hearing. A prehearing presentation is informal, with ample opportunity for exchange of information between WSDOT and the public. Providing community members with opportunities to talk about their concerns in advance of the hearing promotes positive public relationships, and can make the actual hearing proceed more smoothly. Prehearing presentations can be open house meetings, drop-in centers, workshops, or other formats identified in the public involvement plan.

The prehearing presentation is usually held about one week before the hearing for more controversial projects, modified as needed.

Include the date, time, and place in the hearing notice and ensure it is mailed in time to give adequate notice of the prehearing presentation.

### *(9) Conducting the Hearing*

The hearing is facilitated by the Regional Administrator or a designee. Normally, a hearing examiner is used when significant controversy or considerable public involvement is anticipated. A hearing examiner is required for limited access hearings.

A verbatim transcript of the proceedings is made by a court reporter.

Hearings are generally more informative and gain more public participation when an informal format is used, where people's views and opinions are openly sought in a casual and personal way. The informal hearing format may be used for all hearings except limited access hearings. At least one court reporter is required to take individual testimony. Use displays, exhibits, maps, and tables, and have knowledgeable staff available to answer specific questions about the proposed project.

It is the responsibility of the hearing moderator and other department representatives to be responsive to all reasonable and appropriate questions. If a question or proposal is presented at the limited access hearing that can only be answered at a later date, the region shall reserve an exhibit to respond to the comment in the findings and order. The hearing moderator must not allow any person to be harassed or subjected to unreasonable cross-examination.

(a) **Hearing Agenda Items**

For all limited access hearings, and for other formal hearings, the region prepares a hearing agenda to ensure all significant items are addressed. A hearing agenda includes the following:

1. **Opening Statement**
   - Highway and project name.
   - Purpose of hearing.
   - Description of how the hearing will be conducted.
   - Introduction of elected officials.
   - Federal/State/County/City relationship.
   - Statutory requirements being fulfilled by the hearing.
   - Status of the project with regard to NEPA/SEPA documents.
   - Description of information available for review and copying.
   - For environmental, corridor, or design hearings, notice that written statements and other exhibits can be submitted during the open record period following the hearing.
   - Statement that all who want to receive written notification of WSDOT's action as a result of the hearing may add their names to the interest list or file a notice of appearance for limited access hearings.

2. **Project History**

   Present a brief project history, including purpose and need for the project, public involvement program, future hearing opportunities, and hearings held.

3. **Presentation of Plans**

   Develop alternatives that include comparable levels of detail, and present them equally. Include the no-action alternative. Refer to any supporting studies that are available to the public.

   Identify a preliminary preferred alternative, if selected by WSDOT, for more detailed development. When a preliminary preferred alternative has been identified, stress that it is subject to revision and reevaluation based on public comments, additional studies, and other information that may become available.

4. **Environmental, Social, and Economic Discussion**

   Discuss all positive and negative environmental, social, and economic effects (or summarize the major effects), and refer to the environmental documentation.

5. **Statements, Plans, or Counterproposals From the Public**

   Accept public views or statements regarding the proposal presented, the alternatives, and the social, economic, and environmental effects identified. Avoid evaluating the views presented while conducting the hearing.

6. **Relocation Assistance Program**

   Explain the relocation assistance program and relocation assistance payments available. At all hearings, the relocation assistance brochure must be available for free distribution, including (if appropriate) brochures in languages other than English. Real Estate Services personnel should be available.

   If the project does not require any relocations, the relocation assistance discussion may be omitted. Make a simple statement to the effect that relocation assistance is provided, but currently no relocations have been identified for the project. The relocation brochure and personnel should still be available to the public at the hearing.

7. **Acquisition**

   Discuss right of way acquisition, estimated cost, and currently proposed construction schedules and critical activities that may involve or affect the public.

8. **Closing**

   Summarize the hearing and announce proposed future actions.

9. **Adjournment**

   Adjourn the hearing with sincere gratitude for the public's valuable participation.

## *(10) Hearing Summary and Adoption*

Upon completion of a public hearing, a documentation and approval procedure leads to official adoption of the hearing proceedings. After the hearing, a summary is prepared by the region. There are two types of summary documents used, depending on the type of hearing. For environmental, corridor, and design hearings, a hearing summary is produced. Following a limited access hearing, a findings and order document is prepared. Each of these packages is comprised of documentation assembled by the region and approved by Headquarters.

### (a) Hearing Summary Contents

The hearing summary includes the following elements:

1. Hearing transcript.
2. Copy of the affidavit of publication of the hearing notice.
3. Hearing material:
   - Copies of the letters received before and after the hearing.
   - Copies or photographs of, or references to, every exhibit used in the hearing.

4. Summary and analyses of all oral and written comments. Include consideration of the positive and negative social, economic, and environmental aspects of these comments.

(b) **Limited Access Hearing Findings and Order**

Following a limited access hearing, the "summary" document is labeled the findings and order. Refer to 210.09(12) for the process description and required documentation for findings and order documents.

(c) **Adoption and Approval**

For specific hearing types, see subsequent sections in this chapter related to adoption procedures.

Exhibit 210-6 identifies the Headquarters approval authority for hearing summary and findings and order documents.

## 210.06 Environmental Hearing

Early coordination with appropriate agencies and the public may help to determine the appropriate level of environmental documentation, the scope of the document, the level of analysis, and related environmental disciplines to be analyzed.

Environmental documents address the positive and negative social, economic, and environmental project effects, as described in Chapter 225 and the *Environmental Manual*. The project environmental documentation is the first step in the environmental hearing procedure. Each step of the hearing procedure is dovetailed into the environmental process and is important in achieving the appropriate project documentation. Corridor and design hearings are not normally required for Environmental Assessments, SEPA Checklists, and categorically excluded projects. However, the opportunity for an environmental hearing might be required or advisable for controversial proposals. When an environmental hearing is not required, an informational meeting may serve as a useful forum for public involvement in the environmental process. Consult with region environmental staff and the HQ Hearing Coordinator for specific project requirements.

Projects requiring an Environmental Impact Statement (EIS) must use an evaluation process called *scoping* in the NEPA and SEPA requirements. This process helps the project proponents identify the significant issues and possible alternatives analyzed and documented in the Draft EIS, and it must follow the public involvement plan included in the environmental study plan for the project.

After the project has been thoroughly analyzed through the environmental evaluation process and discussed within the community using informal public involvement methods, a hearing is held to present and gather testimony. The hearing is timed to fall within the comment period for the Draft EIS.

For an environmental hearing, the hearing notice must be published at least 15 days prior to the hearing. The timing of additional publications is optional (see Exhibit 210-4).

Responses to comments on the Draft EIS must be addressed in the Final EIS.

### (1) Environmental Hearing Summary

The environmental hearing summary includes the items outlined in 210.05(10).

### (2) Adoption of Environmental Hearing

Chapter 225 and the *Environmental Manual* provide guidance on NEPA and SEPA procedures, documentation requirements, and approvals.

## 210.07 Corridor Hearing

A corridor hearing is a public hearing that:

- Is held before WSDOT is committed to a preferred alternative establishing the final route corridor.
- Is held to ensure opportunity is afforded for effective participation by interested persons in the process of determining the need for and location of a state highway.
- Provides the public an opportunity to present views on the social, economic, and environmental effects of the proposed alternative highway corridors.

A corridor hearing is required if any of the following project actions would occur:

- Proposed route on new location.
- Substantial social, economic, or environmental impacts.
- Significant change in layout or function of connecting roads or streets.

When a corridor hearing is held, the region must provide enough design detail on the proposed alignment(s) within the corridor(s) that an informed presentation can be made at the hearing. Justification to abandon an existing corridor must also be presented.

For general procedures and notification requirements, see 210.05 and Exhibit 210-4.

### (1) Corridor Hearing Summary

After the hearing, the region:

- Reviews the hearing transcript.
- Responds to all questions or proposals submitted at or subsequent to the hearing.
- Compiles a corridor hearing summary.
- Transmits three copies (four copies for Interstate projects) to the HQ Access and Hearings Section.

When appropriate, the hearing summary may be included in the FEIS. If not included, submit the complete corridor hearing summary to the HQ Access and Hearings Section within approximately two months following the hearing.

The corridor hearing summary includes the items outlined in 210.05(10).

### (2) Adoption of Corridor Hearing Summary

The HQ Access and Hearings Section prepares a package that contains the corridor hearing summary and a formal description of the project and forwards it to the Assistant Secretary, Engineering & Regional Operations, for adoption. The HQ Hearing Coordinator notifies the region when adoption has occurred and returns an approved copy to the region.

## 210.08 Design Hearing

A design hearing is a public hearing that:

- Is held after a route corridor is established and approved, but before final design of a highway is engineered.
- Is held to ensure an opportunity is afforded for the public to present its views on each proposed design alternative, including the social, economic, and environmental effects of those designs.

A design hearing is required if any of the following project actions will occur:

- Substantial social, economic, or environmental impacts.
- Significant change in layout or function of connecting roads or streets.
- Acquisition of a significant amount of right of way results in relocation of individuals, groups, or institutions.

For general procedures and notification requirements, see 210.05 and Exhibit 210-4.

### *(1) Design Hearing Summary*

The design hearing summary includes the elements outlined in 210.05(10).

Submit the complete hearing summary to the HQ Access and Hearings Section within approximately two months following the hearing.

If new studies or additional data are required subsequent to the hearing, the region compiles the information in coordination with the HQ Design Office.

### *(2) Adoption of Design Hearing Summary*

After the hearing, the region reviews the hearing transcript, responds to all questions or proposals submitted at or subsequent to the hearing, compiles a hearing summary, and transmits three copies (four copies for Interstate projects) to the HQ Access and Hearings Section. When appropriate, the design hearing summary may be included in the final environmental document. The HQ Access and Hearings Section prepares a formal document that identifies and describes the project and submits it to the Director & State Design Engineer, Development Division, for approval. One approved copy is returned to the region. The HQ Hearing Coordinator notifies the region that adoption has occurred.

On Interstate projects, the Director & State Design Engineer, Development Division, (or designee) submits the approved design hearing summary to the FHWA for federal approval. If possible, this submittal is timed to coincide with the submittal of the Design Decision Summary to the FHWA.

### *(3) Public Notification of Action Taken*

The region prepares a formal response to individuals who had unresolved questions at the hearing. The region keeps the public advised regarding the result(s) of the hearing process, such as project adoption or revision to the plan. A project newsletter sent to those on the interest list is an effective method of notification. Project news items can be sent via e-mail or by more traditional methods.

## 210.09 Limited Access Hearing

Limited access hearings are required by law (per RCW 47.52) whenever limited access is established or revised on new or existing highways. Decisions concerning limited access hearings are made on a project-by-project basis by the Director & State Design Engineer, Development Division, based on information that includes the recommendations submitted by the region (see Chapters 510, 520, 530, and 540).

Limited access hearing procedures generally follow those identified in 210.05; however, several unique products and notifications are also prepared. These include limited access hearing plans and notifications sent to abutting property owners and local jurisdictions. (See 210.09(4) and Exhibit 210-3 for a listing of these products.) Exhibit 210-5 presents a summary of the limited access hearing procedures.

Prior to the limited access hearing (RCW 47.52.131), discussions with the local jurisdictions shall be held on the merits of the limited access report and the limited access hearing plan(s). These are required exhibits for the limited access hearing. (See Chapter 530 for guidance on limited access reports.)

The following information applies only to limited access hearings and procedures for approval of the findings and order.

### *(1) Hearing Examiner*

The HQ Access and Hearings Section hires an administrative law judge from the Office of Administrative Hearings to conduct the limited access hearing.

### *(2) Order of Hearing*

The order of hearing officially establishes the hearing date. The Director & State Design Engineer, Development Division, approves the order of hearing. The HQ Hearing Coordinator then notifies the region, the Attorney General's Office, and the hearing examiner of the official hearing date.

### *(3) Limited Access Hearing Plan*

The region prepares a limited access hearing plan to be used as an exhibit at the formal hearing and forwards it to the HQ Plans Engineer for review and approval approximately 45 days before the hearing. This is a Phase 2 Plan (see Chapter 510). The HQ Plans Engineer schedules the approval of the limited access hearing plan on the Director & State Design Engineer, Development Division's calendar.

### *(4) Limited Access Hearing Information to Abutters*

The region prepares an information packet that must be mailed to abutters, and other entities as specified below, at least 15 days prior to the hearing and concurrent with advertisement of the hearing notice. These items are elements of the prehearing packet as described in 210.05(4)(b) and in Exhibit 210-3. If some of the limited access hearing packets are returned as undeliverable, the region must make every effort to communicate with the property owners.

The limited access hearing packet for abutters contains the following:

- Limited access hearing plan
- Limited access hearing notice
- Notice of appearance

The region also sends the limited access hearing packet to:

- The county and/or city.
- The owners of property listed on the county tax rolls as abutting the section of highway, road, or street being considered at the hearing as a limited access facility.
- Local agencies and public officials who have requested a notice of hearing or who, by the nature of their functions, objectives, or responsibilities, are interested in or affected by the proposal.
- Every agency, organization, official, or individual on the interest list.

The limited access hearing packet is also sent, when applicable, to:

- State resource, recreation, and planning agencies.
- Tribal governments.
- Appropriate representatives of the Department of the Interior and the Department of Housing and Urban Development.
- Other federal agencies.
- Public advisory groups.

### (5) Affidavit of Service by Mailing

The region prepares an affidavit of service by mailing. This affidavit states that the limited access hearing packet was mailed at least 15 days prior to the hearing and that it will be entered into the record at the hearing.

### (6) Limited Access Hearing Plan Revisions

The limited access hearing plan cannot be revised after the Director & State Design Engineer, Development Division (or designee), approves the plan without rescheduling the hearing. If significant revisions to the plan become necessary during the period between the approval and the hearing, the revisions can be made and must be entered into the record as a revised (red and green) plan at the hearing.

### (7) Limited Access Hearing Notice

The limited access hearing notice must be published at least 15 calendar days before the hearing. This is a legal requirement and the hearing must be rescheduled if the advertising deadline is not met. Publication and notice requirements are the same as those required in 210.05, except that the statutory abutter mailing must be mailed after notification to the appropriate legislators.

### (8) Notice of Appearance

The HQ Hearing Coordinator transmits the notice of appearance form to the region. Anyone wanting to receive a copy of the findings and order and the adopted right of way and limited access plan must complete a notice of appearance form and return it to WSDOT either at the hearing or by mail.

### (9) Reproduction of Plans

The HQ Hearing Coordinator submits the hearing plans for reproduction at least 24 days prior to the hearing. The reproduced plans are sent to the region at least 17 days before the hearing, for mailing to the abutters at least 15 days before the hearing.

### (10) Limited Access Hearing Exhibits

The region retains the limited access hearing exhibits until preparation of the draft findings and order is complete. The region then submits all the original hearing exhibits and three copies to the HQ Access and Hearings Section as part of the findings and order package. Any exhibits submitted directly to Headquarters are sent to the region for inclusion with the region's submittal.

### (11) Limited Access Hearing Transcript

The court reporter furnishes the original limited access hearing transcript to the region. The region forwards the transcript to the hearing examiner, or presiding authority, for signature certifying that the transcript is complete. The signed original and three copies are returned to the region for inclusion in the findings and order package.

### (12) Findings and Order

The findings and order is a document containing the findings and conclusions of a limited access hearing, based entirely on the evidence in the hearing record. The region reviews a copy of the transcript from the court reporter and prepares a findings and order package. The package is sent to the HQ Access and Hearings Section.

The findings and order package contains:

- The draft findings and order.
- Draft responses to comments (reserved exhibits).
- A draft findings and order Plan as modified from the hearing plan.
- All limited access hearing exhibits: originals and three copies.
- The limited access hearing transcript: original and three copies.
- The notice of appearance forms.
- Estimate of the number of copies of the final findings and order plan and text the region will need for the mailing.

### (13) Adoption of Findings and Order

The Assistant Secretary, Engineering & Regional Operations, adopts the findings and order based on the evidence introduced at the hearing and any supplemental exhibits.

Following adoption of the findings and order, the HQ Plans Section makes the necessary revisions to the limited access hearing plan, which then becomes the findings and order plan.

The HQ Access and Hearings Section arranges for reproduction of the findings and order plan and the findings and order text and transmits them to the region.

The region mails a copy of the findings and order plan and the findings and order text to all parties that filed a notice of appearance and to all local governmental agencies involved. Subsequent to this mailing, the region prepares an affidavit of service by mailing and transmits it to the HQ Access and Hearings Section.

At the time of mailing, but before publication of the résumé, the region notifies the appropriate legislators of WSDOT's action.

### (14) Résumé

The résumé is an official notification of action taken by WSDOT following adoption of a findings and order. The HQ Access and Hearings Section provides the résumé to the region. The region must publish the résumé once each week for two consecutive weeks, not to begin until at least ten days after the mailing of the findings and order.

### (15) Final Establishment of Access Control

When the findings and order is adopted, the findings and order plan becomes a Phase 4 Plan (see Chapter 510). The establishment of access control becomes final 30 days from the date the findings and order is mailed by the region, as documented by the affidavit of service by mailing.

### (16) Appeal Process

An appeal from the county or city must be in the form of a written disapproval, submitted to the Secretary of Transportation, requesting a hearing before a board of review.

An appeal from abutting property owners must be filed in the Superior Court of the state of Washington, in the county where the limited access facility is to be located, and shall affect only those specific ownerships. The plan is final for all other ownerships.

## 210.10 Combined Hearings

A combined hearing often alleviates the need to schedule separate hearings to discuss similar information. A combined hearing is desirable when the timing for circulation of the draft environmental document is simultaneous with the timing for corridor and design hearings and when all alternative designs are available for each alternative corridor.

When deciding whether to combine hearings, consider:

- Whether there is controversy.
- Whether alternative corridors are proposed.
- The nature of the environmental concerns.
- The benefits to the public of a combined hearing.

## 210.11 Administrative Appeal Hearing

Administrative appeal hearings apply only to managed access highways, are conducted as formal hearings, and are initiated by a property owner seeking to appeal a decision made to restrict or remove an access connection. This is also known as an adjudicative proceeding, and the procedure is presented in Chapter 540.

## 210.12 Follow-Up Hearing

A new hearing or the opportunity for a hearing is required for any previously held hearing when any one of the following occurs (USC 23, §771.111):

- Major actions (such as adoption of findings and order and approval of hearing summaries) did not occur within three years following the date the last hearing was held or the opportunity for a hearing was afforded.
- A substantial change occurs in the area affected by the proposal (due to unanticipated development, for example).
- A substantial change occurs in a proposal for which an opportunity for a hearing was previously advertised or a hearing was held.
- A significant social, economic, or environmental effect is identified that was not considered at earlier hearings.

## 210.13 Documentation

For the list of documents required to be preserved in the Design Documentation Package and the Project File, see the Design Documentation Checklist:
www.wsdot.wa.gov/design/projectdev/

| Proposed Project Actions or Conditions | Types of Hearings[1] | | | | | |
|---|---|---|---|---|---|---|
| | Environmental | Design | Corridor | Limited Access | Combined | Follow-Up |
| Proposed route on new location | | | X | X | | |
| Substantial social, economic, or environmental impacts | X | X | X | X | | |
| Significant change in layout or function of connecting roads or streets | | X | X | X | | |
| Acquisition of significant amount of right of way results in relocation of individuals, groups, or institutions | X | X | | | | |
| Significant adverse impact on abutting real property | X | | | | | |
| An EIS is required or a hearing is requested for an EA | X | | | | | |
| Significant public interest or controversy | X | | | | | |
| Regulatory agencies have hearing requirements that could be consolidated into one hearing process | X | | | | | |
| Limited access control is established or revised | | | | X | | |
| If several hearings are required, consider efficiency of combining | | | | | X | |
| Major actions not taken within 3 years after date last hearing was held | | | | | | X[2] |
| An unusually long time has elapsed since the last hearing or the opportunity for a hearing | | | | | | X |
| Substantial change in proposal since prior hearing | | | | | | X |
| Significant social, economic, or environmental effect is identified and was not considered at prior hearing | | | | | | X |

**Notes:**

[1] This table presents a list of project actions that correspond to required public hearings. The list is intended as a guide and is not all-inclusive. In cases where several types of hearings are anticipated for a project, a combined hearing may be an effective method. Consult with region and Headquarters environmental staff, the designated Assistant State Design Engineer, and the HQ Access and Hearings Section to identify specific hearing requirements and strategies.

[2] Posthearing major actions include: FHWA approvals (for Interstate projects); adoption of hearing summaries and findings and order; and public notification of action taken, such as publishing a résumé.

**Types of Public Hearings**
***Exhibit 210-1***

| Hearing Type | Hearing Format | |
|---|---|---|
| | Formal | Informal |
| Limited Access | Required | Not allowed |
| Environmental | Either format acceptable | |
| Design | Either format acceptable | |
| Corridor | Either format acceptable | |
| Combined | Format depends on type* | |
| Follow-Up | Format depends on type* | |

**Notes:**

Check with the HQ Hearing Coordinator to identify specific hearing type and appropriate hearing format.

* If a combined or follow-up hearing includes a limited access hearing, then that portion of the hearing must adhere to the formal format.

**Public Hearing Formats**
*Exhibit 210-2*

| Prehearing Packet Items | All Hearings | Additional Items for Limited Access Hearings |
|---|---|---|
| Brief project description; purpose and public benefit; history; known public perceptions; and support or opposition | X | |
| Proposed hearing type | X | |
| Hearing arrangements: proposed date, time, and place | X | |
| Proposed hearing format: formal or informal | X | [1] |
| Notice of whether an open house event will precede the hearing | X | |
| Vicinity map | X | |
| Plans for corridor and design alternatives with descriptions | X | |
| News release | X | |
| Legal notice of hearing | X | X[2] |
| List of newspapers and other media sources that will cover the news release and hearing notice | X | |
| List of legislators and government agencies involved | X | |
| Hearing agenda | [3] | X[3] |
| Hearing script | [3] | X[3] |
| Limited access report (see Chapter 530) | | X |
| Limited access hearing plan(s) (see Chapter 530) | | X |
| List of abutting property owners | | X |
| Notice of appearance form | | X |

**Notes:**

The prehearing packet is prepared by the region and transmitted to the HQ Access and Hearings Section for review, concurrence, and processing. This information is assembled in advance of the hearing to facilitate timely announcements and a smooth-flowing event. The HQ Hearing Coordinator requires the prehearing packet 45 days (or sooner) in advance of the proposed hearing date.

[1] Limited access hearings are required by law to be formal.

[2] For a limited access hearing, each abutting property owner affected by the project must receive the hearing notice, along with the notice of appearance form and specific limited access hearing plan(s) showing their parcel(s). Indicate in the prehearing packet the number of affected property owners to whom the packets will be mailed.

[3] A hearing agenda and hearing script are required for a limited access hearing. Any formal hearing requires a fixed agenda and a script. It is recognized that the script may be in draft format at the time of submittal of the prehearing packet. The HQ Hearing Coordinator can assist in its completion and can provide sample scripts and agendas.

**Prehearing Packet Checklist**
***Exhibit 210-3***

| Sequence for Corridor, Design, and Environmental Hearings | |
|---|---|
| **Preparatory Work** | |
| Consult with HQ Hearing Coordinator and environmental specialists to determine specific requirements for a hearing or a notice of opportunity for a hearing. | [see 210.05 & Exhibit 210-1] |
| Assemble support team; identify and schedule tasks and deliverables. | [see 210.05(4)] |
| Prepare prehearing packet (news releases, legal notices, exhibits). | [see 210.05(4)(b) & Exhibit 210-3] |
| ♦ **Minimum 45 Days Prior to Hearing: Transmit Prehearing Packet to HQ**<br>HQ Hearing Coordinator reviews and concurs; schedules hearing. | [see 210.05(4)(b)] |
| **Public Notifications and News Releases** | [see 210.05(5) & (6)] |
| ♦ **35–40 Days Prior to Hearing** (1 week prior to first public ad)<br>Send notice to legislators and local officials. | |
| ♦ **33–35 Days Prior to Hearing** (about 3 days before advertisement)<br>Send letter with news release to media. | |
| ♦ **30 Days Prior to Hearing**<br>Draft EIS becomes available and its open comment period begins. | |
| ***Corridor and Design Hearings***<br>♦ **30 Days Prior to Hearing: Publish First Notice***<br>Advertise at least 30 days in advance of hearing, but not prior to public availability of draft environmental document.<br>♦ **5–12 Days Prior to Hearing: Publish Second Notice** | |
| ***Environmental Hearings***<br>♦ **15 Days Prior to Hearing: Publish First Notice**<br>Advertise at least 15 days in advance; timing of additional notices optional.<br>(If done in combination with design or corridor hearing, use 30-day advance notice.) | |
| **Prehearing Briefings** | [see 210.05(8)] |
| ♦ **5–12 Days Prior to Hearing**<br>Region confers with local jurisdictions; conducts hearing briefings and presentations; and makes hearing materials and information available for public inspection and copying. | |
| **Conduct the Hearing** | [see 210.05(9)] |
| Conduct environmental, corridor, or design hearing. | |
| **Posthearing Actions** | |
| Court reporter provides hearing transcript to region (usually within 2 weeks). | |
| ♦ **2 Months After Hearing: Prepare Hearing Summary and Send to HQ**<br>Region addresses public comments from hearing and throughout comment period; prepares hearing summary and transmits to HQ Hearing Coordinator for processing. | [see 210.05(10)] |
| HQ Hearing Coordinator transmits hearing summary package to HQ approval authority for approval. | [see Exhibit 210-6] |
| HQ Hearing Coordinator notifies region of adoption and returns a copy of approved hearing summary to region. | |

**Notes:**

Important timing requirements are marked ♦

* If the advertisement is a notice of opportunity for a hearing, requests must be received within 21 days after the first advertisement. If there are no requests, see 210.05(7).

**Sequence for Corridor, Design, and Environmental Hearings**
***Exhibit 210-4***

| Sequence for Limited Access Hearing | |
|---|---|
| **Preparatory Work** | |
| Consult with HQ Access and Hearings Section. Determine requirements for a limited access hearing or a notice of opportunity for a hearing. | [see 210.05 & Exhibit 210-1] |
| Assemble support team; identify and schedule tasks and deliverables. | [see 210.05(4)] |
| Prepare limited access report and limited access hearing plan(s). | [see Chapters 510 & 530] |
| Prepare prehearing packet (legal notice, exhibits, information packets for abutting property owners). | [see 210.05(4)(b) & Exhibit 210-3] |
| ♦ **Minimum 45 Days Prior to Hearing: Transmit Prehearing Packet to HQ – Transmit Limited Access Report and Hearing Plans for Approval**<br>HQ Hearing Coordinator reviews and concurs; schedules hearing; transmits limited access report and limited access hearing plan. | [see 210.05(4)(b) & 210.09] |
| ♦ **45 Days Prior to Hearing**<br>HQ actions: Calendar order of hearing & limited access hearing plan approved | [see 210.09(2)&(3)] |
| ♦ **24 Days Prior to Hearing: HQ Reproduction of Plans**<br>HQ action: Approved limited access hearing plan(s) are reproduced in number sufficient for mailing to abutters and other handout needs; one set to be used as hearing exhibit. | [see 210.09(9)] |
| **Notifications, News Releases, Confer With Local Agencies** | |
| ♦ **35–40 Days Prior to Hearing**<br>Send notice to legislators and local officials (1 week prior to first public ad). | [see 210.05(6)] |
| ♦ **33–35 Days Prior to Hearing**<br>Send letter with news release to media (about 3 days before advertisement). | [see 210.05(6)] |
| ♦ **15 Days Prior to Hearing: Publish First Notice***<br>Advertise at least 15 days in advance; timing of additional notices optional. | [see 210.05(6)] |
| ♦ **15 Days Prior to Hearing: Send Hearing Packets to Abutters**<br>(Hearing notice, limited access hearing plan, notice of appearance form). | [see 210.05(4)] |
| ♦ **15 Days Prior to Hearing: Confer With Local Jurisdictions** | [see 210.05(8)] |
| **Conduct the Hearing** | [see 210.05(6)] |
| Using agenda and script, conduct formal limited access hearing. | |
| **Posthearing Actions** | |
| Court reporter provides limited access hearing transcript to region. | [see 210.09(11)] |
| Region prepares findings and order document and transmits to HQ Hearing Coordinator. | [see 210.09(12)] |
| Assistant Secretary, Engineering & Regional Operations, adopts findings and order. | [see 210.09(13)] |
| Limited access hearing plan becomes findings and order plan. | [see 210.09(15)] |
| Findings and order reproduced and mailed to abutters and local jurisdictions. | [see 210.09(13)] |
| HQ provides résumé to region and region publishes. | [see 210.09(14)] |

**Notes:**
Important timing requirements are marked ♦

* If the advertisement is a notice of opportunity for a hearing, requests must be received within 21 days after the first advertisement. If there are no requests, see 210.05(7).

**Sequence for Limited Access Hearing**
***Exhibit 210-5***

| Hearing Summary Document | WSDOT HQ Approval Authority |
|---|---|
| Limited access hearing findings and order | Assistant Secretary, Engineering & Regional Operations |
| Corridor hearing summary | Assistant Secretary, Engineering & Regional Operations |
| Environmental hearing summary | Director, Environmental Services |
| Design hearing summary | Director & State Design Engineer, Development Division |

**Hearing Summary Approvals**
*Exhibit 210-6*