

**WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS  
DESIGN DIRECTIVE**

**201  
PUBLIC INVOLVEMENT PROCESS**  
*October 1, 2003*

Attached is the Division of Highways policy on the "Public Involvement Process" dated November 22, 1993.

This document replaces the "Action Plan" dated 1979, DD-93 dated March 14, 1969 and DD-93-1 dated September 20, 1991. The "Public Involvement Process" will be used on both State and Federal Projects.

Attachment

**PUBLIC INVOLVEMENT PROCESS***November 22, 1993***A. INTRODUCTION**

It is necessary for people to communicate. Communication is an interchange of ideas between individuals and groups. Minimizing communications failure is the responsibility of not only the Division of Highways, but also the citizens of West Virginia. The citizen must be willing to listen, the Division must be willing to listen and both must react in a positive manner to what they have heard. The Division's listening and comment channels must be formally established so the citizen knows where and how to have his views heard and when to expect a response.

**B. REGIONAL CONCEPT****1. STATE AND METROPOLITAN CLEARINGHOUSES**

A clearinghouse is an agency designated by the governor for the purpose of reviewing and coordinating developmental planning in order to qualify for Federal-Aid Funds. Clearinghouses are identified as state, regional and metropolitan, depending on their range of planning activities.

The Governor's Office of Community and Economic Development has been designated as the state clearinghouse as well as a reception point in West Virginia for grant-in-aid information from all federal agencies in accordance with Presidential Executive Order 12372, entitled "Intergovernmental Review of Federal Programs" and Gubernatorial Executive Order No. 7-83 establishing the "Intergovernmental Review Process."

By formal agreements between the clearinghouses and the West Virginia Department of Transportation, Division of Highways, the following programs of the U. S. Department of Transportation are subject to the review process.

- a. Highway planning, development and construction;
- b. Highway planning and research studies;
- c. Highway landscaping and scenic enhancement;
- d. Construction of traffic operations-type projects to increase capacity and safety;
- e. Forest highways and public land highways;
- f. Appalachian development highway system and Appalachian local access roads;
- g. Mass transportation facilities (multi-modal construction); and
- h. Mass transportation systems planning (multi-modal planning).

The "Intergovernmental Review Process" is initiated by the Program Administration Division by notification to the Planning and Research Division who coordinates the process with the Governor's Office of Community and Industrial Development.

## 2. SECONDARY ROAD NOTIFICATION

In accordance with 23 CFR Chapter 1, Part 630.110, Section c, the State of West Virginia notifies the appropriate local officials of the planned use of Federal-Aid Secondary Funds on project(s).

This action is handled by the Program Administration Division prior to authorization of Federal Funds.

## 3. METROPOLITAN PLANNING ORGANIZATIONS

The intergovernmental review process for Federal-Aid Highway Projects in planning areas designated as urbanized (over 50,000 population) is centered on the cooperative development of a Transportation Improvement Program (TIP) for each area. Projects proposed by the Division of Highways for the annual program are recommended to each Metropolitan Planning Organization (MPO) for inclusion in the respective TIPs. Each MPO is encouraged to propose additional projects drawn from the urbanized area transportation planning process for inclusion in the area's annual TIP. Both the Division of Highways and the MPO must concur with each project included in the TIP.

It is not necessary to include every Federal-Aid Highway Project in the TIPs. All Federal-Aid urban system projects are included, as required by Federal Highway Administration's guidelines. New construction projects such as streets and highways, bridges, bridge and highway relocations, and interchanges are generally included regardless of the Federal-Aid funding category used to finance the project. Reconstruction projects and safety projects that alter the function or capacity of a facility are also included, as are the traffic engineering projects such as traffic signals, turning lanes, and channelization projects that improve the operation of existing facilities. Maintenance-oriented projects and other projects that do not alter the function or capacity of existing facilities are generally not required to be included in the TIPs.

Each MPO is responsible for preparing the TIP document and approving it, in cooperation with the Division of Highways, annually. An attempt is made to limit revisions to coincide with quarterly updates of the Division's 105(b) Program. Each MPO submits TIP documentation to the Governor's Office of Community and Industrial Development, the State clearinghouse for review and comment, to complete the intergovernmental review process.

The Program Administration Division (CP) notifies the Planning and Research Division (RP) of Federal-Aid Projects within a MPO. RP coordinates the projects with the five MPOs.

#### 4. URBAN SYSTEM COORDINATION

In accordance with 23 CFR Chapter 1, Part 630.110, Section e, the State of West Virginia coordinates with the appropriate local officials on their selection of projects that utilize Federal-Aid Urban System Funds.

This action is handled by the Program Administration Division prior to authorization of Federal Funds.

### C. MEETING AND HEARING PROCESS

Public meetings and hearings provide interaction between the citizens of West Virginia and the Division of Highways in planning and design. A public hearing is a formalized proceeding where a transcript is prepared and presentations are formal.

Public meetings or workshops are a forum for the free interchange of ideas. Notes are taken and consideration given to comments.

The Division of Highways has a specific process called a "Meeting with an opportunity for a hearing." This is a process requiring that a public meeting be held with the opportunity for a public hearing being given. The notice for the meeting advises of the procedure for requesting a public hearing. This technique is used on Federal-Aid Projects when a full public hearing may be unnecessary because of the type of project or the lack of controversy concerning a specific location and design. The decision to use this process is made by the State Highway Engineer.

On state-funded projects and federal projects not requiring a hearing, a meeting may be held without an opportunity for a public hearing being given.

Public meetings and/or hearings occur during the corridor location stage. The corridor meeting and/or hearing is held before corridor location is approved. It assures an opportunity for effective participation by interested persons in the process of determining the need and location of a highway. A design public meeting and/or hearing is held after corridor location has been approved. Where corridor location studies are not involved, a combined location and design meeting and/or hearing can be held. It insures an opportunity for effective participation by interested persons in the process of determining the specific major design features of a highway facility. Both of these provide a public forum for presenting views on highway location and design features, including social, economic and environmental effects of the alternative locations and designs.

A public meeting and/or hearing will be held, or an opportunity afforded for such meeting and/or hearing, for each highway project that requires the acquisition of significant amounts

of right of way, substantially changes in the layout or function of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, or otherwise has significant social, economic, environmental or other effects.

Additional public meetings and/or hearings may be held when the Division believes there is a substantial change in the proposal, an unusually long lapse of time since the last public meeting and/or hearing or the identification of a significant social, economic or environmental effect not previously considered at earlier meetings and/or hearings.

The Federal Highway Administration may require a public hearing, if they determine that a public hearing is in the best interest of the public.

#### **D. MEETING AND HEARING POLICIES**

The Division of Highways' procedures for public meetings and hearings have been established to maximize citizen input in both location and design while complying with environmental requirements. These environmental requirements include the National Environmental Policy Act, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act and Executive Orders 11988 and 11990 (Flood Plains and Wetlands).

Meetings and hearings are moderated by responsible officials in the Division. The Division furnishes individuals who are sufficiently familiar with the project to answer questions raised by the public. Alternative courses of action, alternative project locations and major features of the project are discussed along with environmental and other effects of the alternatives.

#### **E. MEETING AND HEARING PROCEDURE**

When the Division of Highways determines that it has reached a stage in the development process at which a public meeting or hearing is required, the Public Affairs Division will be notified.

##### **1. NOTICE**

When a public meeting and/or hearing is scheduled, notice in the form of a legal advertisement will be published at least twice in newspapers having general circulation in the vicinity of the proposed project. In addition, all advertisements are placed in the Charleston Newspapers. Each notice shall specify the date, time and place of the meeting and/or hearing and will contain a description of the project.

The notice shall further indicate that the environmental effects of the project will be discussed at the meeting and/or hearing. The notice of a design public meeting and/or hearing shall indicate that tentative schedules for right of way acquisition, relocation assistance programs and construction will be discussed. To promote public understanding, a map or drawing may be included.

The notice will specify where exhibits are available for inspection and copying. It will further advise of the availability of an environmental document when applicable. The notice will specify what material will be available at the public meeting and/or hearing for public viewing. Locations where material will be placed will include the District offices of the Division, the affected Regional Planning and Development Council office and should the project be in a location in excess of ten miles from these offices, information may be made available at the office of the Clerk of the County Commission in the various counties, Mayor's offices or Public Libraries.

The notice for a public meeting will state that an opportunity to request a public hearing is given by writing to the Commissioner of Highways.

## 2. PUBLICATION OF MEETING AND HEARING NOTICES

The Public Affairs Division maintains a current list of newspapers that advertisements are to be placed in, based on the location of the project.

- a. Public Meeting Without An Opportunity For A Public Hearing: The first notice shall appear in the newspaper at least 14 days prior to the meeting. The second advertisement will appear in the paper 3 to 7 days prior to the meeting. This can be used on 100% State Funded Projects only.
- b. Public Meeting With An Opportunity For A Public Hearing With An Environmental Document: The first notice will appear in the newspaper at least 45 days prior to the cutoff date that a request for a public hearing may be made. The second notice will appear not less than 14 days prior to the cutoff date that a request for a public hearing may be made.
- c. Public Meeting With An Opportunity For A Public Hearing With An Environmental Review: The first notice will appear in the papers at least 21 days prior to the date of cutoff for request of public hearing. The second notice will appear at least 14 days prior to the cutoff date for request of a public hearing. An Environmental Review is a brief review of the environmental effects of the project and a copy is given to all participants at a Public Meeting.
- d. Public Meeting And Public Hearing With An Environmental Document: The first notice shall appear at least 45 days prior to the date of public hearing and 30 days prior to the date of public meeting. The second notice shall appear at least 12 days prior to the public hearing and at least 7 days prior to the public meeting.

3. ENVIRONMENTAL DOCUMENTS

When an environmental document is submitted to the public and agencies for comment as a part of the public involvement process, the cutoff date for comment will be 45 days after the first notice appears in the newspapers. The notice shall advise the cutoff date and where the document is available for public inspection.

When an environmental document is not concurrent with the public meeting and/or hearing process, the notice shall state where the document is available, how copies may be obtained and where comments will be received. The notice will also contain the last date comments will be received. The cutoff date will be at least 45 days after the first publication of the notice.

4. OTHER NOTICES

In addition to the formal newspaper legal advertisement, a press release concerning the meeting and/or hearing may be prepared and distributed by the Public Affairs Division.

5. CONDUCT OF A MEETING AND/OR HEARING

- a. Meetings and/or hearings will be moderated by a responsible official of the Division.
- b. The developing Division will furnish an individual who is sufficiently familiar with the project to answer questions raised by citizens.
- c. The Division's presentation will include project description, alternatives, environmental and other effects of the project.
- d. Provision will be made for submission of written statements and other exhibits in addition to oral statements at meetings or hearings. Cutoff dates for all written statements will be 10 days after the meeting and/or hearing.
- e. At a meeting and/or hearing involving a federally funded project, this will be stated for the record.
- f. The Division will explain its right of way acquisition process, relocation assistance program and relocation assistance payments at each public meeting and/or hearing where appropriate.

6. PUBLIC HEARING TRANSCRIPT

The Public Affairs Division will develop a verbatim transcript of the proceedings of each public hearing by a court reporter. The Public Affairs Division will make all arrangements for the court reporter. After the transcript has been prepared, the

original will be retained in their file. Copies and certification will be forwarded to the developing Division for appropriate action and transmittal to the Federal Highway Administration, should the project be federally funded. Copies of the transcript and appendices will be available for public inspection.

7. **PUBLIC MEETING NOTES**

The developing Division will be responsible for notes of the meeting. These notes are to include the approximate number of people attending, Division participants, advertisement and pertinent comments made at the meeting.