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## 225.01 General

The term “environmental documentation” refers to the documents produced for a project to satisfy the requirements contained in the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA). The [Environmental Manual](#) and supporting web pages provide detailed instructions on how to determine what level of documentation is required and how to prepare the documents. This chapter provides a summary of the relevant provisions in the *Environmental Manual*.

The purpose of the environmental document is to provide decision makers, agencies, and the public with information on a project’s environmental impacts, alternatives to the proposed action, and mitigation measures to reduce unavoidable impacts. Final environmental documents identify and evaluate the project to be constructed. Because projects vary in their level of environmental impacts, the rules on environmental documentation allow for different levels of documentation. As a project’s impacts increase, so does the level of documentation.

The region Environmental Office and the NEPA/SEPA Compliance Section of the Headquarters Environmental Services Office routinely provide environmental documentation assistance to Designers and Project Engineers.

## 225.02 Determining the Environmental Documentation

The Environmental Review Summary (ERS) provides the first indication of what form the environmental documentation will take. The ERS is developed as part of the Project Summary, which is prepared during the scoping or pre-design phase of all projects in the construction program. The Project Summary (see [Chapter 300](#) for additional information) includes three components:

- Project Profile
- Basis of Design
- Environmental Review Summary

The ERS is part of the Project Summary database. The ERS describes the potential environmental impacts, proposed mitigation, and necessary permits for a project. It establishes the initial environmental classification and identifies the key environmental elements to be addressed in the NEPA/SEPA process. The ERS database includes fully integrated “Help” screens. Contact your region Program Management Office to get set up to work in the database.

Completing an ERS to determine the level of environmental documentation may begin once the project has been identified and basic environmental impacts to both physical and human environment can be assessed using preliminary project details. The region completes the ERS based best available information at the scoping or pre-design phase of development. The region Environmental Manager then approves the ERS, which enables the completed form to be included in the Project Summary package.

For many projects, the WSDOT Geographic Information System (GIS) Workbench coupled with a potential site visit provides sufficient information to fill out the ERS (see the GIS Workbench online Help).

### **225.02(1) Environmental Justice**

Environmental Justice (EJ), as obligated in Presidential Executive Order 12898, seeks to eradicate, mitigate, and avoid disproportionately high and adverse effects to low income and minorities, and Indian tribes during the NEPA process. Projects subject to NEPA that may adversely impact low income and minority populations may be required to conduct an EJ analysis.

At the state level, the Healthy Environment for All Act (HEAL Act) addresses disproportionate environmental and health impacts in all laws, rules, and policies by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm. The federal definition of EJ means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. The HEAL Act broadens the definition of environmental justice, focuses attention on environmental health impacts and requires WSDOT to conduct an environmental justice assessment for significant actions (i.e., a project with a budget equal to or greater than \$15M).

Conduct an EJ assessment<sup>1</sup> for WSDOT projects when the combined budget for all phases (PE, RW, and CN) are equal to or greater than \$15 Million and when starting planning, or pre-design on or after July 1, 2023, regardless of whether the project's impacts are expected to have adverse environmental impacts on overburdened communities and vulnerable populations. Evaluate ongoing projects with a combined budget equal to or greater than \$15 Million that initiate a NEPA Re-Evaluation to determine whether an EJ assessment is required (contact Region Environmental Office for more information).

A major component of EJ compliance is community engagement with the public and all communities potentially affected by the project. All projects are encouraged to have meaningful and inclusive project-specific community engagement with all members of the community potentially affected to better provide access to our decision-making processes (see [Chapter 210](#) for more information).

For more information about EJ compliance and obligations associated with the HEAL Act, see WSDOT Environmental Manual: Chapter 460 or contact the region's environmental office.

### **225.02(2) Other Environmental Documentation Requirements**

As part of a project's environmental documentation, there are other documents that may be required to demonstrate compliance with applicable federal and state laws. These may include Section 106 of the National Historical Preservation Act, Endangered Species Act, etc. Contact the region Environmental Office and Environmental Manual for more information.

## **225.03 Identifying the Project Classification**

Based on the environmental considerations identified during preparation of the ERS, WSDOT projects are classified for NEPA/SEPA purposes to determine the type of environmental documentation required. Projects with a federal nexus (i.e., using federal funds, involving federal lands, or requiring federal approvals or permits) are subject to NEPA and SEPA. Projects that are state funded only, with no federal nexus, follow SEPA guidelines.

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<sup>1</sup> Note: An EJ assessment as required by the HEAL Act is different from an EJ analysis required for federally funded projects under NEPA. A project may be required to conduct both.

Since many WSDOT projects are prepared with the intent of obtaining federal funding, NEPA guidelines are usually followed. ([Environmental Manual](#) Chapters 300 and 400 and the Federal Nexus Requirements table on the NEPA & SEPA webpage provide more information on federal nexus and NEPA class of.)

For most WSDOT projects, the Federal Highway Administration (FHWA) is the lead agency for NEPA. Depending on the action, other federal agencies that may serve as NEPA lead are the U.S. Army Corps of Engineers, Federal Aviation Administration, Federal Railroad Administration, and Federal Transit Administration. WSDOT follows the NEPA and associated documentation process required by the federal lead agency. If a project has been determined to be an FHWA Categorical Exclusion (CE), the Environmental Classification Summary (ECS) is completed by the Environmental office.

The NEPA environmental review process is considered complete when the region Environmental Manager approves the ECS package and provides it to the PE Office. If it is determined that an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is required, the region evaluates the project schedule and arranges for preparation of the appropriate document. Environmental Manual Chapter 400 provides additional information on completing NEPA documentation.

For SEPA, WSDOT's procedures align NEPA and SEPA so that WSDOT's NEPA documentation meets the requirements of SEPA. If a project does not trigger NEPA, then WSDOT will still need to comply with SEPA requirements. The SEPA process is complete when the appropriate categorical exemption is identified, or the appropriate public comment period has ended and SEPA decision has been adopted. Environmental Manual Chapter 400 provides additional information on completing SEPA documentation.

## 225.04 Environmental Commitment File

As an initial part of project development, the region establishes a project commitment file. It is WSDOT policy that a project commitment file be established as soon as the preparation of environmental documentation begins. The file consists of proposed mitigation measures; commitments made to regulatory agencies, tribes, and other stakeholders; and other documented commitments made on the project. Further commitment types (right of way, maintenance, and so on) may be added at the region's discretion.

The Region/Mode/Megaprograms Environmental Office is responsible for creating and maintaining the commitment file as a project progresses through its development process. Whenever commitments are made, they are incorporated into project documents and added to the environmental commitment file once they are finalized.

Commitments are typically included within, but not limited to, the following documents or approvals and any of their supplements or amendments:

- Memoranda, Agreements, Letters, Electronic Communications
- No-Effect Letters
- Biological Assessments
- Biological Opinions
- Concurrence Letters
- SEPA Checklists
- NEPA Categorical Exclusions
- NEPA Environmental Assessments
- NEPA/SEPA Environmental Impact Statements
- Findings of No Significant Impact (FONSI)
- Records of Decision (ROD)
- Section 106 Concurrence Letters from Tribes and Department of Archaeology & Historic Preservation
- Hazardous Materials Analysis
- Environmental Justice Evaluation
- Section 4(f) Evaluation
- Mitigation Plans
- Environmental Permits and Applications, and Associated Drawings and Plans

WSDOT has a Commitment Tracking System (CTS) to organize and track commitments from the commitment file. Refer to the [Environmental Manual](#) (Chapter 490) for policies associated with tracking commitments.

### 225.05 Environmental Permits and Approvals

WSDOT projects are subject to a variety of federal, state, and local environmental permits and approvals. Performing field work in support of the project design may also require environmental permits or approvals. Understanding and anticipating what permits and approvals may be required for a particular project type will assist the designer in project delivery. The <https://wsdot.wa.gov/engineering-standards/design-topics/environment/environmental-permits-approvals> Environmental Guidance webpage provides guidance on the applicability of permits and approvals by environmental discipline. Because the facts of each project vary and the environmental regulations are complex, reliance on either the Design Manual or the [Environmental Manual](#) is insufficient. Consult region/mode/megaprograms environmental staff.

The Environmental Review Summary (ERS), which is prepared as part of the Project Summary, identifies some of the most common environmental permits that might be required based on the information known at that stage. As the project design develops, additional permits and approvals can be identified. Conducting project site visits for engineering and environmental features may reduce project delays caused by late discoveries. Coordinate with and communicate any project changes to region environmental staff.

The permit process begins well in advance of the actual permit application. For some permits, WSDOT has already negotiated permit conditions through the use of programmatic and general permits. These permits typically apply to repetitive, relatively simple projects, and the permit conditions apply regardless of the actual facts of the project type. For complex projects, the negotiations with permit agencies often begin during the environmental documentation phase for compliance with the National Environmental Policy Act (NEPA) and the State Environmental Policy Act (SEPA). The mitigation measures developed for the NEPA/SEPA documents are captured as permit conditions on the subsequent permits.

Environmental permits require information prepared during the design phase to demonstrate compliance with environmental rules, regulations, and policies. To avoid delays in project delivery, it is necessary for the designer to understand and anticipate this exchange of information. The timing of this exchange often affects design schedules, while the permit requirements can affect the design itself. In complex cases, the negotiations over permit conditions can result in iterative designs as issues are raised and resolved. Continuously consult region /mode/megaprograms environmental staff to help avoid delays in project delivery.

The Project Engineer is encouraged to meet with and discuss expectations with support groups so that preliminary field investigations are conducted in compliance with environmental permits, agreements, laws, or regulations. At a minimum, the support groups should know how to access the environmental commitments for the project and determine which ones apply to their work. If a non-compliance event occurs, coordinate with support groups so that they know to initiate the Environmental Compliance Assurance Procedure (see Section [225.05\(1\)](#) for details).

### **225.05(1) Environmental Compliance During Design Phase**

The purpose of the Environmental Compliance Assurance Procedure (ECAP) is to recognize and rectify environmental non-compliance events during all phases of the project development process including the Design phase. The ECAP provides prompt notification to WSDOT management and regulatory agencies. For purposes of ECAP, non-compliance events are defined as actions that violate environmental permits, agreements, laws, or regulations.

Responsibilities for field work during design phase.

1. PE or designee:
  - Step A - Takes the necessary actions so that appropriate environmental documentation and permits are obtained for field work during the PE phase
  - Step B - Provides permits and communicates permit conditions to support groups performing field work (Geotechnical, Utilities, Environmental, etc.)
2. The Environmental Manager or designee will help generate or make accessible the appropriate environmental documentation and permits.
3. Support Group / Field Crew is responsible for permit compliance, including the following:
  - Confirming they have all the permits, and understanding of the permit conditions prior to beginning work
  - Evaluating field operations, including access to specific locations, and developing work plans so that permit conditions are met (Temporary Erosion and Sediment Control (TESC), etc.)
  - Recognizing and identifying non-compliance issues.
  - Notifying the PE and Environmental Manager when non-compliance issues/events happen.

When non-compliance is suspected or known, it is the Project Engineer's (PE) responsibility to initiate the Notification and Resolution Process below. The Regional Environmental Manager will serve as a resource to the PE and give priority to addressing the non-compliance event. The PE and Environmental Manager shall work together on an appropriate response to avoid or minimize environmental damage.

### 225.05(1)(a) Notification and Resolution Process

When non-compliance occurs or is suspected, the following steps are taken:

1. The person/support group who discovers an event shall immediately notify the PE.
2. The **PE** or designee shall:
  - Step A – Inform the field crew to suspend all work that is causing non-compliance.
  - Step B – Immediately contact the Environmental Manager or designee to help determine if it is or is not a non-compliance event. (Note: if event is compliant; stop the notification process and resume work activity).
  - Step C - If non-compliant, collaborate with the Environmental Manager to determine the regulatory agencies with jurisdiction. Notify all regulatory agencies with jurisdiction.
  - Step D – Consult with the Environmental Manager regarding response actions taken so far and any additional remediation actions that may be necessary.
  - Step E– Notify the appropriate Assistant Region Administrator or Engineering Manager for Design and the Assistant State Design Engineer assigned to that Region or Project.
  - Step F – Additional notifications (see F.1 and F.2 below) from the PE are necessary when the non-compliance event:
    - Results in a formal written/verbal enforcement action from a regulatory agency or
    - Presents significant risk to public health or
    - Presents significant risk to the environment or
    - Creates a public controversy. (The Region decides what “public controversy” means.)
  - Step F.1 – Region Highway Projects: Notify the Region Administrator (give a courtesy notification to the Assistant State Design Engineer assigned to the project).
  - Step F.2 – Mega Projects Highway Projects: Notify the Mega Project’s Program Administrator (give a courtesy notification to the Assistant State Design Engineer assigned to the project).
3. The **Region Administrator, Assistant State Design Engineer, and/or Mega Projects Program Administrator** shall notify the appropriate agency executives as warranted by the situation.
4. The **Environmental Manager** or designee shall:
  - Step A – Notify the Director of the Environmental Services Office (ESO) when the non-compliance event:
    - results in a formal written/verbal enforcement action from a regulatory agency;
    - presents significant risk to public health or
    - presents significant risk to the environment or
    - creates a public controversy. (The Region decides what “public controversy” means)
  - Step B - Assist the PE in determining and recognizing the underlying root cause(s) that resulted in the non-compliant event and determining how to prevent a reoccurrence of the event.
  - Step C - In consultation with the PE, identify and obtain new or modified permits, approvals, or agreements as needed to rectify the non-compliance event.
5. The **Director of the ESO** shall notify the ESO Compliance Solutions Branch Manager.

### 225.05(1)(b) Documentation

1. The PE and the Environmental Manager shall coordinate and prepare the appropriate responses to all regulatory agencies with jurisdiction. The responses shall include documentation about any non-compliance event and how it was recognized and rectified.
2. The Environmental Manager, with assistance from the PE, shall record the details of the non-compliance event in the WSDOT Commitment Tracking System (CTS) (per [RCW 47.85.040](#)), including but not limited to:
  - Project Name and location, plus the name of the PE.
  - Date of event.
  - Location(s) on the project where the non-compliance event occurred.
  - The type of work and the underlying root cause that resulted in the non-compliance event.
  - The environmental, permit, agreement, law, or regulation violated.
  - Description of how the non-compliance event was recognized, rectified, and the lessons learned.
  - Which regulatory agencies and staff were notified, including dates of notification and any tracking numbers provided.
  - Whether or not regulatory agency staff conducted a site review in response to the notification.

The ESO shall produce a yearly report of all written notifications or violations to the Washington State Legislature (per [RCW 47.85.040](#)).

### 225.06 References

#### 225.06(1) Federal/State Laws and Codes

[42 United States Code \(USC\) 4321](#), National Environmental Policy Act of 1969 (NEPA)

[23 Code of Federal Regulations \(CFR\) Part 771](#), Environmental Impact and Related Procedures

[23 CFR Part 774](#); [49 USC Section 303](#), Policy on Lands, Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites

[36 CFR Part 800](#), Protection of Historic and Cultural Properties

[40 CFR Parts 1500-1508](#), Council for Environmental Quality Regulations for Implementing NEPA

[Chapter 43.21C Revised Code of Washington \(RCW\)](#), State Environmental Policy Act (SEPA)

[Chapter 47.85 Revised Code of Washington \(RCW\)](#), Transportation Project Delivery and Review

[Chapter 70A.02 Revised Code of Washington \(RCW\)](#), Healthy Environment for All Act (HEAL Act)

[Chapter 197-11 Washington Administrative Code \(WAC\)](#), SEPA Rules

[Chapter 468-12 WAC](#), WSDOT SEPA Rules

### **225.06(2) WSDOT Environmental Resources**

WSDOT region environmental staff

[Environmental guidance | WSDOT \(wa.gov\)](#)

[Environmental Manual | Manuals | WSDOT \(wa.gov\)](#)

*Environmental Manual*, M 31-11, WSDOT

<https://wsdot.wa.gov/engineering-standards/all-manuals-and-standards/manuals/environmental-manual>