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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 phase of all projects in the construction program. The Project Summary (see Chapter 300 for additional information) includes two components:

- Project Definition
- 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 addressed in the NEPA/SEPA process. The ERS database includes fully integrated “Help” screens. Contact your region Environmental Office or Program Management Office to get set up to work in the database.

The typical process for classifying projects and determining the level of environmental documentation is as follows:

- Once the project has been sufficiently developed to assess any environmental impacts, the region completes the ERS based on the best information available at the scoping phase of development.
- The region Environmental Manager then concurs with the classification by approving the ERS, which enables the completed form to be included in the Project Summary package.
- For NEPA, if a project has been determined to be a Categorical Exclusion (CE), the Environmental Classification Summary/SEPA Checklist (ECS/SEPA Checklist) is completed. The NEPA environmental review process is considered complete when the region Environmental Manager approves the ECS package (guidance is provided in the online Help in the ECS/SEPA Checklist database). If it is determined that a Categorical Exclusion (CE), 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.
- For SEPA, the signing and submittal of the ECS/SEPA Checklist completes the environmental classification process. On projects that are categorized as exempt from SEPA, the environmental process is complete unless the project requires consultation under the Endangered Species Act. On projects that do not meet the criteria for a SEPA Categorical Exemption (WACs [197-11-800](#) and [468-12](#)) and require a SEPA checklist ([WAC 197-11-960](#)) or an EIS, those documents are prepared as necessary prior to Project Development Approval.

At this early stage, the ERS allows environmental staff to consider potential impacts and mitigations and required permits. For many projects, the WSDOT Geographic Information System (GIS) Workbench coupled with a site visit provides sufficient information to fill out the ERS (see the GIS Workbench online Help).

For most WSDOT projects, the Federal Highway Administration (FHWA) is the lead agency for NEPA. Other federal lead agencies on WSDOT projects are the U.S. Army Corps of Engineers, Federal Aviation Administration, Federal Railroad Administration, and Federal Transit Administration.

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 (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. Since many WSDOT projects are prepared with the intent of obtaining federal funding, NEPA guidelines are usually followed. (See Chapter 300 of the [Environmental Manual](#) for more information.)

225.04 Environmental Commitment File

As an initial part of project development, the region establishes a project commitment file. Establishment of this file generally coincides with preparation of the environmental

documentation. 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 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
- Finding of No Significant Impact (FONSI)
- Record of Decision (ROD)
- Section 106 Concurrence Letter from Tribes and Department of Archaeology & Historic Preservation
- Mitigation Plans
- Environmental Permits and Applications, and Associated Drawings and Plans

Additional information (see [Procedure 490-a](#)) for establishing a commitment file is available online at WSDOT's Tracking Commitments webpage. WSDOT has a Commitment Tracking System 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 [Environmental Permits and Approval](#) website provides guidance on the applicability of permits and approvals. 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 environmental staff.

The Environmental Review Summary, 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.

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 225.06(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 the 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 (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 Documentation

Refer to Chapter 300 for design documentation requirements.

225.07 References

225.07(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 197-11 Washington Administrative Code (WAC), SEPA Rules

Chapter 468-12 WAC, WSDOT SEPA Rules

225.07(2) WSDOT Environmental Resources

WSDOT region environmental staff

Environmental Permits and Approval webpage:

 <https://www.wsdot.wa.gov/environment/technical/permits-approvals>

Environmental Manual, M 31-11, WSDOT

 www.wsdot.wa.gov/publications/manuals/m31-11.htm

