Chapter 590 Incorporating environmental commitments into contracts

590.01 Reflect the environmental commitments in WSDOT's contracts
590.02 Incorporate environmental commitments into contracts
590.03 Environmental Commitments Meeting
590.04 Abbreviations and acronyms
590.05 Glossary

590.01 Reflect the environmental commitments in WSDOT's contracts

WSDOT tracks and identifies commitments during the design process (see Chapter 490), as well as through construction and sometimes into maintenance (see Chapter 600). WSDOT *Plans Preparation Manual* M 22-31 Division 4 and WSDOT *Design-Build Manual* M 3126 Chapter 4 require that contract-relevant environmental commitments be communicated to the contractor/Design-Builder, respectively (see WSDOT *Plans Preparation Manual* M 22-31 Section 600.01). If they are not incorporated into the contract, the contractor/Design-Builder is not obligated to implement the commitments WSDOT makes. Constructing the project is conditioned upon environmental commitments from, for example, National Environmental Policy Act (NEPA) documents, Washington State Environmental Policy Act (SEPA) documents, Endangered Species Act (ESA) documents, interagency agreements, permits, and other environmental approvals.

In addition, P 1018 *Environmental Policy Statement* directs WSDOT employees to communicate compliance roles, responsibilities, environmental commitments, and expectations to contractors/consultants/Design-Builders.

WSDOT has prepared a set of crosswalk documents for programmatic environmental commitments to show who is responsible and how they will be implemented; that is, the crosswalk documents identify the *Standard Specifications*, *General Special Provisions* (GSPs), or *Standard Plans* for contract-relevant commitments. These crosswalk documents allow project teams to focus on contract-relevant commitments that are not covered by an existing specification, leading to the development of Special Provisions. The following crosswalk documents may be accessed through WSDOT's Environmental guidance webpage, under the Tools, templates & links tab of the respective discipline's webpage:

- HPA Provisions for Fish Passage Projects, accessible on WSDOT's Fish webpage.
- General Hydraulic Project Approval (GHPA) – WSDOT Bridge Maintenance and Preservation, accessible on WSDOT's Fish webpage.
- Nationwide Permits – Standard commitments, accessible on WSDOT's Wetlands & other waters webpage.
- Programmatic Biological Assessment Minimization Measures for U.S. Fish and Wildlife Service and the National Marine Fisheries Service, accessible on WSDOT's Endangered Species Act & Essential Fish Habitat webpage.
- National Pollution Discharge Elimination System (NPDES) Construction Stormwater General Permit (Transfer of Coverage), accessible on WSDOT's Stormwater & water quality webpage.

For your convenience, the WSDOT Commitment Tracking System (CTS) web application contains these crosswalk documents and associated programmatic commitments; refer to the help menu within CTS for instructions on how to copy programmatic documents and their commitments into your project. Contact WSDOTCTSAdministrator@wsdot.wa.gov for support or additional CTS training requests.

590.02 Incorporate environmental commitments into contracts

The Region/Mode/Megaprograms Environmental Office is responsible for creating and maintaining the commitment file (WSDOT *Design Manual* M 22-01 Section 225.04).

Commitments assigned to the contractor/Design-Builder must be incorporated into contracts. For Design-Bid-Build projects, commitments for which the contractor is responsible are added into contracts during the Plans, Specifications and Estimates (PS&E) phase (WSDOT *Plans Preparation Manual* M 22-31 Division 4). For Design-Build projects, commitments for which the Design-Builder is responsible are added into the Request for Proposal (RFP); refer to the WSDOT *Design-Build Manual* M 3126 Chapter 4, as well as the instruction boxes within RFP Template, Section 2.08 Environmental, for more information about incorporating commitments into the RFP. The level of detail incorporated into commitments differs by project delivery method (e.g., Design-Bid-Build or Design-Build). For example, commitments incorporated into Design-Bid-Build contracts are typically fairly precise because the contracting occurs further along in design. Alternatively, commitments incorporated into Design-Build RFPs may be more conceptual because they are described early in the design phase.

For each commitment, identify which contract document will address the requirement. Per Section 590.01, refer to crosswalk documents or CTS to find contract coverage information for common commitments. Note, both delivery methods (i.e., Design-Bid-Build and Design-Build) may reference *Standard Specifications* and *General Special Provisions* in contracting documents. If it is determined that an environmental Project-Specific Special Provision is needed for the project, or if an existing Standard Specification needs to be changed, the Region/Mode/Megaprograms Environmental Office should coordinate with the Project Office, appropriate headquarters (HQ) Subject Matter Expert(s) (SME), and HQ Environmental Compliance Lead (see WSDOT *Plans Preparation Manual* M 22-31 Section 600.01). For Design-Build projects, you should also coordinate with the RFP Template Technical Requirement SME for the given section (e.g., 2.08 *Environmental*, 2.30 *Water Crossings*).

590.03 Environmental Commitments Meeting

590.03(1) Objective

The objective of the Environmental Commitments Meeting is to ensure contracts accurately reflect all environmental commitments from permits and project-specific environmental documents. Legal obligations are established for the Contractor/Design-Builder, ensuring adherence to environmental regulations throughout the project's lifecycle by incorporating environmental commitments into the contract.

590.03(2) Meeting Deadlines and Scalability

The Environmental Commitments Meeting must be conducted during the design phase of the project before the PS&E meeting (WSDOT *Plans Preparation Manual* M 22-31 Division 4). The meeting's timing allows for a comprehensive review and integration of environmental commitments into the project's contract documents at the appropriate stage of project development.

Additionally, the meeting may be scalable to accommodate the complexity and scale of each individual project. For larger and more intricate projects, a stand-alone meeting involving all relevant attendees may be necessary to ensure thorough evaluation and integration of commitments. Smaller and simpler projects may benefit from incorporating this meeting into other scheduled meetings within the design phase, optimizing efficiency while maintaining the necessary focus on environmental considerations.

590.03(3) Responsibility and Attendees

The WSDOT Project Office is responsible for scheduling and facilitating the Environmental Commitments Meeting (see WSDOT *Plans Preparation Manual* M 22-31 Section 400.02).

Attendees for this critical gathering should include the Region/Mode/Megaprograms Environmental Office, the Design and Construction Project Engineers (or designees), Plans Review Offices, and any other support groups deemed necessary.

590.04 Abbreviations and acronyms

CTS	Commitment Tracking System
ESA	Endangered Species Act
GSP	General Special Provisions
GHPA	General Hydraulic Project Approval
HPA	Hydraulic Project Approval
HQ	Headquarters
NEPA	National Environmental Policy Act
NPDES	National Pollution Discharge Elimination System
PS&E	Plans, Specifications, and Estimates
RFP	Request for Proposal
SEPA	State Environmental Policy Act
SME	Subject matter expert(s)

590.05 Glossary

These definitions provided context for incorporating commitments into contracts. Some terms may have other meanings in a different context.

Commitment – An obligation that WSDOT makes within an environmental document or agreement for the project; or an expectation imposed upon WSDOT by another agency through a permit or approval for the project. Commitments can be either the agency's or the contractor's/Design-Builder's responsibility to implement.

Commitment File – This file serves as the repository for all final environmental documents leading to development of the contract.

Commitment Tracking System – The Commitment Tracking System (CTS) is a WSDOT web application that stores commitments in a secure computer network server, plus manage the responsibility (WSDOT, contractor/Design-Builder, or both) and implementation method (guidance document or contract) for the commitment. It also stores compliance records, document the status, and report details about commitments from their inception through project delivery and on to maintenance.

Environmental Commitments Meeting – A project-level meeting facilitated by the Project Office between the Environmental Offices, Design, Construction, Plans, and other supporting groups used to incorporate commitments into contract.