U.S. Department of Transportation **Federal Highway Administration** **Washington Division**		**Standard Operating Procedure (SOP)** Issued: September 15, 2011 Updated: n/a Approved: _____ (signature) Sharon P. Love, Environmental Program Manager (name and title)
Subject:	**NEPA and Section 4(f) Review and Approval**	

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II. REFERENCES

PUBLIC LAW, U.S. CODE, REGULATIONS, CIRCULARS, MEMORANDUMS/GUIDANCE

- 42 USC 4321-4347: National Environmental Policy Act (NEPA)
- 23 CFR 771: Federal Highway Administration Environmental Impact and Related Procedures
- 40 CFR 1500-1508: Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act
- Federal Highway Administration Technical Advisory T6640.8A: Guidance for Preparing and Processing Environmental and Section 4(f) Documents
- 23 USC §139: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) §6002

- Federal Highway Administration SAFETEA-LU Environmental Review Process: Final Guidance
- 23 CFR 774: Federal Highway Administration Section 4(f) Procedures
- FHWA Section 4(f) Policy Paper

State Specific Stewardship and Oversight Agreements:

- Washington Division Office and Washington Department of Transportation's Stewardship Agreement

State Specific Environmental Programmatic Agreements

- NEPA Categorical Exclusions Memorandum of Understanding
- Section 106 Programmatic Agreement
- WSDOT/FHWA Endangered Species Act Programmatic BA with US Fish and Wildlife: Eastern Regions
- WSDOT/FHWA Endangered Species Act Programmatic BA with US Fish and Wildlife: Western Regions

State Specific Environmental Procedure Documents:

- WSDOT's Environmental Procedures Manual
- WSDOT Biological Assessment Preparation Manual

III. PURPOSE/OBJECTIVE

To establish Division procedures for the coordination, review and approval of environmental documents required under the National Environmental Policy Act (NEPA) and Section 4(f) of the Transportation Act of 1966 as amended.

To ensure the consistent and efficient management of the environmental process within the Division and to promote sound decision-making that is transparent and in the public interest by incorporating environmental stewardship and regulatory compliance into project delivery.

IV. DEFINITIONS

Categorical Exclusion (CE) –An action which, based on past experience with similar actions, does not individually or cumulativelly have any significant environmental impact (23 CFR 771.117).

Environmental Assessment (EA) – Documentation prepared for an action that is not a CE, but does not clearly require the preparation of an environmental impact statement (EIS) or when the Administration believes it will assist in determining the need for an EIS (23 CFR 771.119).
Environmental Impact Statement (EIS) – Documentation that is a detailed written statement prepared for an action that will likely cause significant environmental impacts (23 CFR 771.123). Both a Draft EIS (DEIS) and Final EIS (FEIS) are required.

Findings of No Significant Impact (FONSI) – A concise document prepared at the conclusion of the EA presenting the reasons that an action will not have significant environmental impacts and will not require preparation of an EIS (23 CFR 771.121).

Record of Decision (ROD) – Documentation prepared after the FEIS that presents the basis for the decision, summarizing any mitigation measures that will be incorporated into the project. (23 CFR 771.127).

Section 4(f) Evaluation – Documentation prepared to support the granting of the Section 4(f) approval and determination that there is no feasible and prudent alternative to the use of Section 4(f) property and that the proposed action includes all possible planning to minimize harm to the property resulting from that use. (23 CFR 774.7).

V. SCOPE

This SOP is intended to define individual roles and internal coordination procedures within the Division; specific to NEPA and Section 4(f) document development review and approval. It includes required and recommended timelines and key task sequencing to establish consistent Division practices.

VI. PROCEDURES

NEPA Requirement

NEPA is triggered when FHWA is required to take a Federal action. Typically, this occurs when a project proposes to use Federal funds, there is a change in use of interstate right of way (ROW) (including disposal), or there is a change in access to interstate ROW. In situations where it is questionable whether or not NEPA has been triggered, the Area Engineer should seek input from the Environmental Program Manager.

Guidance regarding the definition of a Federal action and a major federal action can be found at 23 CFR 771.107 and 40 CFR 1508.18.

Division Roles and Responsibilities

The following section describes the internal roles and responsibilities of Division Office staff:

***Area Engineer/Major Projects Engineer (AE/MPE)*:** The AE/MPE serves as the primary contact between the Division and WSDOT Region personnel on project related issues, including project development, NEPA analysis, design, and construction.

***Environmental Program Manager (EPM)*:** The EPM is responsible for monitoring and resolving program level issues. The EPM also acts as a technical resource for the AE/MPEs and participates in determining the NEPA class of action, and in the development and review of Section 4(f), EA,EIS, FONSI and ROD documents.

ROW Program Manager/Environmental Specialist (ROW/ES): The ROW Program Manager/Environmental Specialist's environmental duties consist of assisting the EPM in providing technical support to the Division Office on environmental program issues, and is the lead reviewer for most EIS projects.

Biologist: The Biologist assists the EPM and ROW/ES and AE/MPEs in the review of NEPA documents with a primary focus on compliance with the Endangered Species Act and ecological impacts.

***Division Administrator (DA)*:** The DA is ultimately responsible for approving NEPA documents, although that responsibility has been delegated to the AE/MPEs for EAs and CEs. The DA should be kept aware of highly controversial situations in environmental processes that are developing on projects that may include significant public controversy, an impasse between partner and/or cooperating agencies, or extraordinary environmental impacts. The AE/MPE and the EPM are responsible for keeping the DA informed.

Assistant Division Administrator (ADA): The Assistant Division Administrator has been delegated the authority to approve an EIS, ROD, or Section 106 Memorandum of Agreement (MOA) in the absence of the DA.

***Interdisciplinary Review Team*:** Council on Environmental Quality (CEQ) and FHWA regulations require an interdisciplinary approach in the preparation of an EIS and an EA (40 CFR 1502.6). The AE/MPE shall consult with Division discipline staff, as appropriate, to ensure that the disciplines of the preparers and the reviewers are appropriate to the scope and issues identified in the scoping process. Table 1 is an outline of the staff who make up the Division's Interdisciplinary review team (IRT) and their areas of expertise. The Environmental Team (ET), consisting of the, EPM and ROW/ES and the Civil Rights Program Manager, should always be involved in EIS development to ensure that all NEPA requirements are met.

Table 1: Interdisciplinary Review Team (IRT)	
Discipline	*Areas of Responsibility*
Area Engineer/Major Project Engineer (AE/MPE)	Purpose & Need, Logical Termini, Geometrics, Alternatives, Traffic, Safety, Maintenance of Traffic, Constructability, Notice of Intent, and Preferred Alternative/Conceptual Mitigation , Eligibility for Federal Funds, Role of FHWA
Major Project Engineer	Cost Estimates (for major projects)
Civil Rights Program Manager	Title VI, Environmental Justice, Americans with Disabilities Act
Environmental Program Manager (EPM) and Environmental Specialist (ROW/ES)	Purpose & Need, Logical Termini, Environmental Process, Social and Economic Impacts, Wetlands, Floodplains, Mobile Source Air Toxics (MSAT), Noise, Water Resources, Threatened, Endangered, and Sensitive Species, Wildlife Ecology, Historic and Archaeological Resources, Land Use, Public Involvement, Section Section 4(f), Section 6 (f), Section 106, ESA Section 7, Army Corps of Engineers LEDPA, Notice of Intent, Preferred Alternative/Conceptual Mitigation, Climate Change, Cumulative & Indirect Impacts, Energy Impacts, Farmland, Hazardous Waste, Visual Impacts, Wild and Scenic Rivers, Sole Source Aquifers, National Trails System, Social and Economic Impacts
ROW Program Manager (ROW/ES)	Acquisition and Displacement, Business Impacts, Utilities
Bridge Engineer	Hydraulics, Bridges, Geotechnical, Tunnels
Planning Program Manager	Purpose & Need, Logical Termini, Land Use, Planning Consistency, Air Quality Conformity, System Continuity, Economic Analysis
Safety & Geometric Design Engineer	IAPA consistency, Safety Aspects of Purpose & Need, Alternative Design, Utilities, Geometric Design, Transportation
Mobility/ITS Engineer	Traffic Analysis, Congestion Management, Transportation
Construction/Pavement & Materials Engineer	Material Aspects of Design & Construction, Construction Issues
Bicycle/Pedestrian Coordinator	Bicycle/Pedestrian Issues

Authority, Prior Concurrence, and Legal Sufficiency

The authority to approve an EIS is delegated to the DA, subject to the following limitations: 1) A requirement for *prior concurrence* and 2) a requirement for FHWA *legal sufficiency review*.

EIS Prior Concurrence: Prior concurrence is a step in the project development process in which the FHWA field offices obtain an approval from Headquarters (HQ) before proceeding with key approvals under NEPA. Prior concurrence typically applies to the FEIS [23 CFR771.125(c)] and may apply to other draft and final documents subject to administration approval. The FHWA prior concurrence is a finding by the FHWA HQ Office of Environment, Planning, and Realty that the project and documents are acceptable from a policy or a program perspective. The DA may not approve an environmental document for such projects until HQ has granted their concurrence.

Prior concurrence projects are determined on a case-by-case basis. Projects with one or more of the following characteristics may require prior concurrence from FHWA HQ:

- Impacts of unusual magnitude
- High levels of controversy
- Emerging or national policy issues under development
- Issues for which the division office seeks policy assistance

Either the Division office or HQ can identify a project as being appropriate for prior concurrence. This initiation can happen at any time in the project development stage. This can be communicated orally, by e-mail or regular mail. Ultimately the determination will be documented and is the responsibility of the AE/MPE. The documentation will identify:

- The key issues that are involved in the project
- Any project-specific coordination needs that are to be addressed
- HQ's role in pending NEPA/project development approvals
- General time frames for communications between and needed actions by the Division and HQ

For a prior concurrence project, the AE/MPE is responsible for a high-level of coordination with the DA. Prior concurrence projects are likely to receive information requests from the FHWA Office of Chief Counsel in Headquarters, Western Legal Services (WLS) and the Director of Field Services. The AE/MPE will coordinate any requests from the FHWA legal staff or the Director of Field Services with the Field Office Team Leader (FOTL) and EPM. Division Office communications with the Director of Field Services go through the DA or ADA.

EIS and Section 4(f) Legal Review Coordination and Legal Sufficiency –
Legal Review Coordination on the DEIS: The EPM works with the AE/MPE to determine when the DEIS and/or Draft Section 4(f) Individual Evaluations are sufficient for submittal to WLS. The

legal review from WLS occurs prior to the request for AE/MPE approval. The purpose of the legal review is to provide the Division advice about whether the DEIS or Draft Section 4(f) Individual Evaluation contains flaws that may require revision prior to approval and public review. Review of DEIS, Draft Section 4(f) Individual Evaluations, or other documents identified by the Division Office, will be coordinated in advance with WLS so that an agreed-upon review schedule is reached.

Legal Sufficiency on the FEIS: In addition, FHWA regulations require that a FEIS (23 CFR 771.125(b)) and Final Section 4(f) Individual Evaluations (23 CFR 774.7(d)) undergo a legal sufficiency review prior to their approval and public distribution. The DA may approve these documents only after considering the results of a legal sufficiency determination by WLS. The legal sufficiency review is a final check to verify that the FEIS and/or Final Section 4(f) Individual Evaluation and overall process have been developed in compliance with applicable regulations. For planning purposes, each legal review takes 30 days, unless a project-specific schedule has been negotiated in advance. Generally, WLS comments on documents, and when their comments have been addressed they make a final determination, documented in a letter or e-mail, that the document is legally sufficient. WLS staff may also be consulted at other times during project development to obtain advice on complex or controversial situations. This consultation is recommended when outside parties have threatened or there exists a high risk for legal action to be taken against a project.

NEPA Classes of Action

There are three classes of actions in the NEPA Process (23 CFR 771.115). Table 2 summarizes the kinds of actions that require a class of document.

- Class 1 – Environmental Impact Statement (EIS)
- Class 2 – Categorical Exclusion (CE)
- Class 3 – Environmental Assessment (EA)

Table 2: NEPA Classes of Action

Class I **Environmental Impact Statement (EIS)**	**Class II** **Categorical Exclusion (CE) and Documented Categorical Exclusion (DCE)**	**Class III** **Environmental Assessment (EA)**
Required for actions likely to have significant environmental effects that cannot be mitigated.	Required for actions that do not individually or cumulatively have a significant environmental effect. The project must complete necessary environmental studies and comply with all applicable requirements.	Required for actions that do not qualify as a CE, but where there is insufficient information to determine whether the project's impacts warrant an EIS. An EA may also be a useful tool to incorporate environmental considerations into project design and also can aid in NEPA compliance when an EIS is not required.
Examples include: • A new, controlled access freeway. • A highway project of four or more lanes in a new location	Examples include: • Pedestrian facilities • Landscaping • Routine maintenance, including resurfacing, bridge replacement and rehabilitation, and minor widening. Approval of some types of CEs have been delegated to WSDOT, as outlined in the CE MOU programmatic agreement.	Examples include: • New construction of a highway interchange • Adding thru-lanes to an existing highway.

The class of action decision should consider:

- Project scope and location
- Potential environmental effects
- Degree of controversy
- Any information resulting from scoping that has been conducted

FHWA is responsible, in consultation with WSDOT, for determining the class of document required under NEPA. For projects involving other Federal agencies as co-lead, the decision on the appropriate class of document must be agreed to by all of the co-lead agencies. For projects where there are other federal cooperating agencies, FHWA may solicit input from these cooperating agencies on the class of document. In cases where FHWA is the sole lead agency, FHWA is ultimately responsible for the class of action decision.

In some cases, the AE/MPE may defer the determination of the class of NEPA document until some project specific discipline reports/technical memoranda are complete, so they are able to make a more informed decision. This has typically occurred when trying to decide between a DCE and an EA.

Document Review Process

The Area Engineer/Major Projects Engineer (AE/MPE) meets with the WSDOT/Local Agency project team to understand the project and determine the appropriate level of NEPA documentation. The AE/MPE may choose to involve the ET in the process of determining the appropriate level of NEPA documentation, particularly in cases where there is controversy over the level of documentation, or where other Federal agencies are involved as co-lead agencies.

EIS/ROD

The process for an EIS is the same for Local Agency and WSDOT projects.

1. AE/MPE ensures that the project has sent a Project Initiation Letter to FHWA kicking off the SAFETEA-LU 6002. Ensures that WSDOT's SAFETEA-LU 6002 Coordinator is involved. Receipt of this letter should be attached to the Washington Division's Project Action Tracking System (PATS) by the AE/MPE. FHWA Headquarters requires reporting of all SAFETEA-LU steps, and the EPM will enter this data into the FHWA Environmental Document Tracking System (EDTS).

2. AE/MPE reviews, sends a draft to FHWA HQ legal (see template folder for the appropriate contact) for a format review, and signs the Notice of Intent (NOI) drafted by the project proponent and sends the NOI to the Federal Register. The AE/MPE provides a copy of the NOI to the Environmental Program Manager (EPM) so that it can be entered into the FHWA EDTS. If WSDOT provided a draft NOI, the date it was received should be the "in" date in the database. The "out" date can be the date of the transmittal to the Federal Register, but ideally would be later edited to be the date of publication in the Federal Register.

3. AE/MPE sends invitation letters to federal cooperating and participating agencies and tribes that have been identified to have jurisdiction or an interest in the project.

4. AE/MPEand the EPM attend the Early Coordination meeting for the project with the Statewide Advisory Group on Environmental Stewardship (SAGES).

5. The SAFETEA-LU 6002 process requires that projects request comments from participating and cooperating agencies and the public at several points in the process:
    - the purpose and need statement,
    - the range of alternatives to be studied,
    - and the methods of analysis/level of detail for the technical studies.

6. Soon after the Early Coordination meeting, the AE/MPE briefs the DA, ET and the IRT onthe project. The briefing should include: a vicinity map, the purpose and need of the project, and any public controversy. In addition, the AE/MPE will highlight any areas that need special attention during the review that came up as a part of the AE/MPE's

involvement in project development activities. At this time the AE/MPE and the ET can discuss whether it would be appropriate or necessary to have concurrent review by legal counsel at WLS.

7. AE/MPE determines if FHWA should review discipline reports/technical memoranda and distributes to ET and Interdisciplinary Review Team (IRT) as appropriate. AE/MPE should ensure that the ET are available to meet the schedule.

8. AE/MPE distributes the preliminary DEIS to the reviewers when it is received in the office. AE/MPE then sets a due date for comments from IRT, usually 30 days from the date of the request. If a shorter time frame is requested, AE/MPE should discuss with IRT to agree upon an achievable, reasonable time frame before the AE/MPE commits FHWA to a shorter time frame. Reviewers must complete the checklist found in Appendix C.
    - If the project requires Prior Concurrence from FHWA HQ, the AE/MPE needs to include FHWA HQ in the DEIS review. If a shorter review time frame is requested, the AE/MPE needs to include FHWA HQ in the discussion on what the alternative time frame will be. If there is any question about whether the project requires Prior Concurrence, the AE/MPE should consult the ET team our HQ NEPA contact.

9. Although rare, the AE/MPE can request a concurrent legal and Division review. If WLS is agreeable, the AE/MPE, ET, and WLS agree upon a review schedule. and the AE/MPE distributes the preliminary DEIS to legal counsel for their review (it is Division policy is to request legal review of the preliminary DEIS).

10. AE/MPE compiles all comments from IRT and, if necessary, schedules a comment resolution session.
    - <u>Comment Resolution Session</u>
      The AE/MPE and IRT should meet to discuss any comments from the reviewers that the AE/MPE does not understand or agree with. Both the AE/MPE and reviewers will have an opportunity to present reasoning supporting their position on any issues they may have. If the session does not lead to a resolution and the ET is unable to resolve the issue, the ADA will decide on the appropriate approach.

11. If not conducting concurrent legal review, the AE/MPE, in consultation with the ET, determines if the DEIS is adequate to forward to legal counsel or if WSDOT/Local Agency (LA) needs to revise the document first.

12. AE/MPE transmits preliminary DEIS to legal counsel for a 30 day review.

13. AE/MPE transmits preliminary DEIS legal comments to appropriate WSDOT staff.

14. AE/MPE notifies review team when WSDOT responses to comments have been received, and coordinates thereview to determine if responses are adequate.

15. If AE/MPE, legal counsel, and ET are satisfied with responses, AE/MPE signs DEIS title sheet.

16. WSDOT/LA circulates DEIS and holds the public hearing no sooner than 15 days after publication of the DEIS.
    - ET recommends that AE/MPE attends the public hearing.

17. WSDOT/LA prepares preliminary FEIS and WSDOT forwards to AE/MPE for review.

18. AE/MPE distributes FEIS to ET and IRT, with a due date for comments. Reviewers should be given 30 days to review unless a shorter time period has been negotiated between the AE/MPE and the ET and IRT for the project. Reviewers must complete the checklist found in Appendix D.
    - If the project requires Prior Concurrence from FHWA HQ, the AE needs to include FHWA HQ in the FEIS review. If a shorter review time frame is requested, the AE needs to include FHWA HQ in the discussion on what the alternative time frame will be.

19. AE/MPE compiles all comments from IRT, and schedules a comment resolution session, if necessary.

20. AE/MPE determines if document is adequate to forward to legal counsel or if WSDOT/LA needs to revise the document first.

21. AE/MPE forwards acceptable preliminary FEIS to legal counsel for a 30 day review.

22. AE/MPE transmits legal comments on preliminary FEIS to WSDOT.

23. AE/MPE coordinates responses to any further legal counsel comments with WSDOT.

24. AE/MPE obtains written legal sufficiency finding (typically an e-mail) from legal counsel. Legal sufficiency must be obtained before the FEIS can be signed.

25. AE/MPE briefs DA on FEIS, DA signs FEIS and WSDOT then circulates the FEIS.

26. AE/MPE reviews draft ROD received from WSDOT, including completing the checklist in Appendix E, and coordinates with ET and legal counsel to finalize the language in the ROD. AE/MPE briefs DA on ROD and DA signs ROD. If the project requires Prior Concurrence from FHWA HQ, the AE should ensure that written concurrence has been obtained from HQ. This is usually in the form of an e-mail from FHWA HQ environmental. The ROD cannot be signed until at least 30 days after the FEIS is

published.

27. The AE/MPE files a Limitation of Claims Notice in the Federal Register (23 CFR 771.139 The AE/MPE should consult with the EPM regarding the information required and the timing of the notice for a project**.** Detailed information and templates for the notice can be found in P:\Environment\Templates.

EA/FONSI

1. When the AE/MPE receives a preliminary EA for review, AE/MPE briefs ET on project and relevant project issues. ET will then decide if they need to review EA.

2. AE/MPE sets deadline for comments as described in step #8 of the EIS procedure. (Note: EAs do not require prior concurrence.)

3. AE/MPE reviews the EA and completes the checklist in Appendix A, compiles comments and, if necessary, schedules a comment resolution session with the IRT and the WSDOT project team.

4. AE/MPE forwards comments to WSDOT for revisions and WSDOT returns updated document to AE/MPE with agreed upon time frame.

5. AE/MPE ensures all comments have been addressed and signs the title sheet.

6. AE/MPE ensures WSDOT/LA offers opportunity for a public hearing and holds a public hearing if one is requested by any member of the public.
    - For most projects, the ET recommends that a public hearing be held and the AE/MPE attends the public hearings.

7. WSDOT forwards FONSI with public comment responses to AE/MPE for review.

8. AE/MPE reviews the FONSI and fills out the checklist in Appendix B, and ensures WSDOT/LA has responded to all comments received as part of public comment period. AE/MPE then signs FONSI when all comments have been sufficiently resolved. (Note: if comments are received after the public comment period is closed, the comments still need to be addressed. They can be addressed outside of the FONSI process, such as response letters sent to commenters.)

Categorical Exclusions signed by Washington State Department of Transportation (WSDOT) under the Programmatic CE Memorandum of Understanding

Some categorical exclusions can be approved by WSDOT that meet specific criteria. The criteria are defined in the Programmatic NEPA Categorical Exclusions Memorandum of Understanding (CE MOU). They include projects listed in 23 CFR 771.117(c) as well as some projects that meet the requirements of 23 CFR 771.117(d) and the criteria in part B of the CE MOU. WSDOT's

practice is to document these CEs on the same Environmental Classification Summary form that is used for Documented Categorical Exclusions.

Documented Categorical Exclusion (DCE)

AE/MPE will be the primary reviewer of the DCE, including all supporting documentation. The ET is available to discuss any issues with the AE/MPE to provide guidance.

1. As with all other documents, the ET and IRT should be consulted for comments on document.
2. If necessary, the AE/MPE will schedule a comment resolution session with the WSDOT/LA project team.
3. After all comments from the AE/MPE and IRT are resolved, the AE/MPE signs the DCE.

Re-evaluations

A re-evaluation of a project's NEPA document is required when any of the following situations occur:

a. It has been more than three years since the last federal action on a project. Federal actions include approvals, funding authorizations, and NEPA actions.
b. There has been a change in the project scope.
c. There has been a change in regulations or the surrounding environment.

Reevaluations can be documented on the Environmental Classification Summary (ECS) form, or may be written more as a narrative, depending on which format best fits the information needed. The reevaluation should reference the original NEPA document, clearly explain the changes, and provide updated information related to the project changes. When the project is a CE, a new CE document is prepared rather than a re-evaluation.

The purpose of a re-evaluation is to determine if a Supplemental Document is necessary. A Supplement would be required when:

- Substantial new adverse impacts are identified.
- Work is added that is outside the previous study area.
- New regulations (or new ESA listings) are released that apply to the project in question.

The Supplemental Document follows the majority of the procedures of the document it is supplementing. For instance, a Supplemental Draft EIS would require a public hearing. For assistance with the details, such as which SAFETEA-LU 6002 steps need to be repeated, consult the ET.

Section 4(f) Evaluations

1. During project development, AE/MPE determines if there is a Section 4(f) use. Then the AE/MPE determines if the use is *de minimis* as defined in 23 CFR 774.17 or if one of the

five programmatics can be used. The ET is available to assist the AE/MPE to make these determinations, and further information, including the programmatic documents, is available on the FHWA HQ website at http://environment.fhwa.dot.gov/4f/index.asp.

2. If the Section 4(f) use is *de minimis*, AE/MPE reviews the finding included in the EA or DEIS text or attached to the CE documentation.

3. If one of the Section 4(f) programmatics applies, AE/MPE reviews the programmatic documentation and determines whether it is sufficient. If found sufficient, the AE/MPE then signs the Section 4(f) document, which should be included in or referenced in the NEPA document.

4. If *de minimis* or the programmatics cannot be used, the AE/MPE will brief the ET about the project, the Section 4(f) resource, the proposed use, and any important issues that are relevant to the project that may influence a decision. The AE/MPE may choose to discuss the Section 4(f) with legal counsel as well.

5. When AE/MPE receives the draft Section 4(f) Evaluation, AE/MPE will also provide a copy to the ET for their review. AE/MPE sets a deadline for completion of the review – typically 30 days, but it could be shorter if agreed to by the ET. Reviewers will complete the checklist found in Appendix F.

6. AE/MPE compiles comments and, if necessary, schedules a comment resolution session. AE/MPE then determines if document is adequate to forward to legal counsel or if WSDOT needs to revise the document first.

7. AE/MPE forwards draft Section 4(f) Evaluation to legal counsel for their review.

8. AE/MPE receives comments from legal counsel and transmits to WSDOT for revision.

9. Once all comments have been resolved, the AE/MPE signs the title sheet for the draft Section 4(f) Evaluation and sends to WSDOT.

10. WSDOT will circulate the document to the Department of Interior (DOI). AE/MPE should receive a comment letter from DOI within 45 days per 23 CFR 774.5(a). If DOI comments are not received within 15 days after the 45 day comment period (60 days after comments are requested) , the AE can proceed with the next step.

11. WSDOT revises the 4(f) Evaluation to address any comments received during the comment period and forwards final Section 4(f) Evaluation to AE/MPE for review. The AE/MPE will complete the review checklist found in Appendix G.

12. AE/MPE and ET review document to ensure all comments have been addressed.

13. AE/MPE forwards final Section 4(f) Evaluation to legal counsel with a request for a legal sufficiency determination.

14. AE/MPE obtains written legal sufficiency finding (typically an e-mail) from legal counsel. Legal sufficiency must be obtained before the Section 4(f) Evaluation can be signed. AE/MPE signs the Section 4(f) Evaluation.

15. AE/MPE can now sign the ECS document for a DCE. For an EA, the Final Section 4(f) should be included in or attached to the FONSI. For an EIS, the Final Section 4(f) should be included in the FEIS, but could be included in the ROD under certain circumstances, such as late discovery – the ET should be consulted if this is proposed.

Section 106 of the National Historic Preservation Act

The Division has a separate SOP for Section 106. Please refer to it for details.

The Division typically does not get involved in the details of the Section 106 consultation unless there is an adverse effect or if a tribe requests our presence in the consultation. In the case of an adverse effect on a Section 106 property, typical steps an AE/MPE can expect to participate in are listed below.

1. AE/MPE is notified that the project is expected to have an adverse effect on a Section 106 property, and they are asked to participate in the development of the draft Memorandum of Agreement (many times participation is the review of the draft MOA)

2. AE/MPE receives package from WSDOT that the project will have an adverse effect on a Section 106 property and ensures it is complete per the documentation requirements in 38 CFR 800.11(e).

3. AE/MPE confirms that the Department of Archaeology and Historic Preservation (DAHP) has concurred in the adverse effect determination.

4. AE/MPE forwards package to the Advisory Council on Historic Preservation (ACHP) to notify them of the adverse effect. AE/MPE also ensures that there is documentation of the tribal consultation efforts, with any issues summarized. The ACHP should respond in 15 days if they have any problems with the package or if they want to participate in the consultation.

5. AE/MPE ensures all consulting parties are satisfied with the MOA stipulations and requests that WSDOT procure the consulting party signatures.

6. The Division Administrator signs the MOA and the AE/MPE ensures a copy has been returned to WSDOT.

7. AE/MPE forwards a copy of the executed MOA to the ACHP.

Endangered Species Act (ESA) Section 7 Consultation

The Division has an SOP for ESA Section 7 Consultations. Please refer to it for specific details related to Division guidance and policies.

All federal actions must conduct an ESA evaluation to determine if the project will affect federally listed species. The NEPA and the ESA Section 7 processes interact in the early phases of the environmental analysis of a project. The NEPA drives the evaluation of biological resources in the project area concurrent and interdependent with the ESA Section 7 consultation process. A CE determination through NEPA does not exempt a project from sufficient environmental analysis to determine the likely presence and potential impacts of the project on listed species. A potential adverse effect on species or habitat protected by the ESA does not automatically require elevation of the NEPA documentation (CE, EA, EIS). This depends on the importance of the resources and the scope of the impacts.

AEs/MPEs should receive all Biological Assessments (BAs). For Formal consultations, the AE/MPE should transmit the BA formally to the Services (US Fish and Wildlife Service and National Marine Fisheries Service). All BAs should be reviewed for consistency with the project design and constructability of any conservation measures. The AE/MPE may be called upon to participate in the resolution of any issues that arise in the consultation. In the case of a Formal Consultation, the AE/MPE should also receive the draft Terms and Conditions or the draft Biological Opinion (BO). These should be reviewed and any issues resolved with the Services before the BO is finalized. The AE/MPE should ensure that the Letter of Concurrence or Biological Opinion has been received from the Services prior to signing a NEPA document unless a specific exception has been made. The AE/MPE will need to prepare a response to Essential Fish Habitat recommendations if any are included in the NMFS BO. Please refer to the ESA SOP for more details.

Emergency Relief Projects

1. Once the AE/MPE has determined that the site is eligible for ER funding, the environmental requirements are as follows:

    a. *Temporary/Emergency Work*
    This type of project qualifies as a CE per 23 CRF 771.117(c)(9). However, other environmental laws such as Section 106, Section 4(f), and ESA still apply.
        i. AE/MPE signs Detailed Damage Inspection Report (DDIR), with no expectation of signing a documented Categorical Exclusion
        ii. AE/MPE confirms that notifications to the regulatory agencies with jurisdiction have taken place. For instance, if emergency work involved in-water work or other activities that may result in effects to listed species, AE/MPE ensures that WSDOT/LA notified the National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (USFWS), and followed up with a request for emergency consultation.

        iii. ESA requires that WSDOT or the LA to notify the Services. Usually there is verbal approval to proceed with the temporary repairs. This is followed up by after-the-fact ESA consultations, which may require additional minimization measures.

        iv. Section 106 emergency procedures are outlined in Section VI of the Statewide Programmatic Agreement and in 36 CFR 800.12(b)(2). Notification to ACHP and DAHP is required within 48 hours of the event.

    b. *Incidental Permanent Restoration*
    Requirements are the same as those for the Temporary/Emergency Work listed above.

    c. *Permanent Restoration*
    AE/MPE treats this project as a normal Federal-Aid project and follows the normal NEPA process for the appropriate level of NEPA documentation.

2. Section 404 of the Clean Water Act and various state requirements, such as the Hydraulic Project Approval permit, have their own emergency notification procedures that WSDOT or the local agency should be following.

VII. CONTROLS

Signature Authority

Table 3 outlines the signature authority or primary responsibility area for key milestones in the NEPA process.

Table 3: Signature Authority Delegations for Washington Division

Activity	Authority	Delegated To
Class of document determination	23 CFR 771.115 Thru – 119	AE/MPE and/or EPM
Filing of Notice of Intent	23 CFR 771.123	AE/MPE*
DEIS	23 CFR 771.123	AE/MPE*
FEIS	23 CFR 771.125	DA
ROD	23 CFR 771.127	DA
EA	23 CFR 771.119	AE/MPE*
FONSI	23 CFR 771.121	AE/MPE*
Programmatic CE	23 CFR 771.117	WSDOT
Non-Programmatic CE	23 CFR 771.117	AE/MPE*
Re-evaluations	23 CFR 771.129	AE/MPE*
Individual Section 4(f)	23 CFR 774	AE/MPE*
Programmatic Section 4(f)	23 CFR 774	AE/MPE*
Section 4(f) *De minimis* Impact Finding	23 CFR 774	AE/MPE*
Section 106 MOA	36 CFR 800.6	DA

*If the AE/MPE is not available, the EPM or ROW/ES can sign on their behalf.

Review of SOP

The SOP will be reviewed and revised, as appropriate, to reflect changes in law, regulation, policy or procedure.

Project Action Tracking Database

The Division Office has a database set up in Microsoft access to track all activities relevant to any programmed project. It is the responsibility of all personnel to enter applicable data in a

timely manner as they approve or process relevant data. Approval dates of NEPA documents, agreement dates, kick-off meetings, and similar information should be kept up to date in the database.

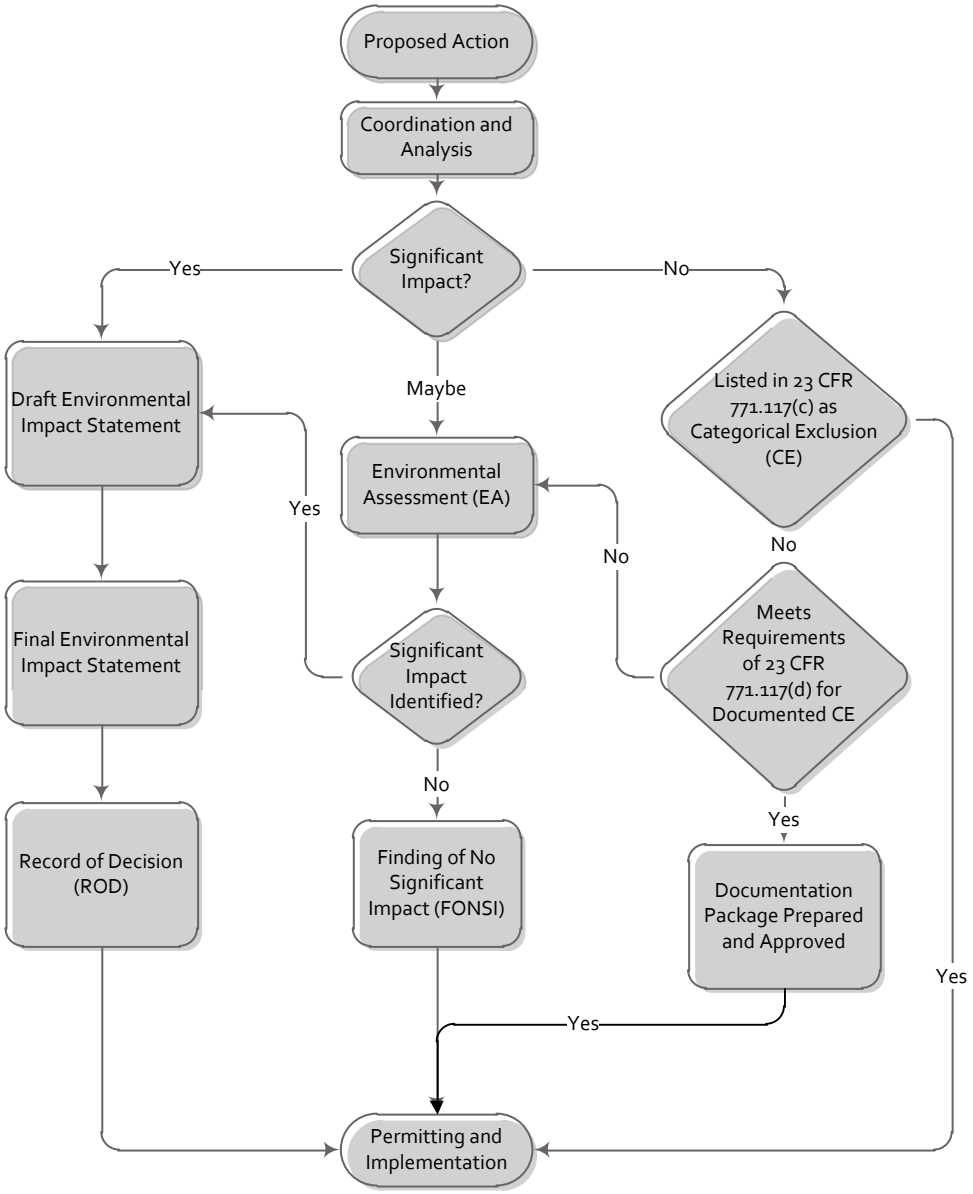
Correspondence

The Division Administrator will sign all correspondence dealing with individuals, the public, major controversial, critical or special emphasis areas.

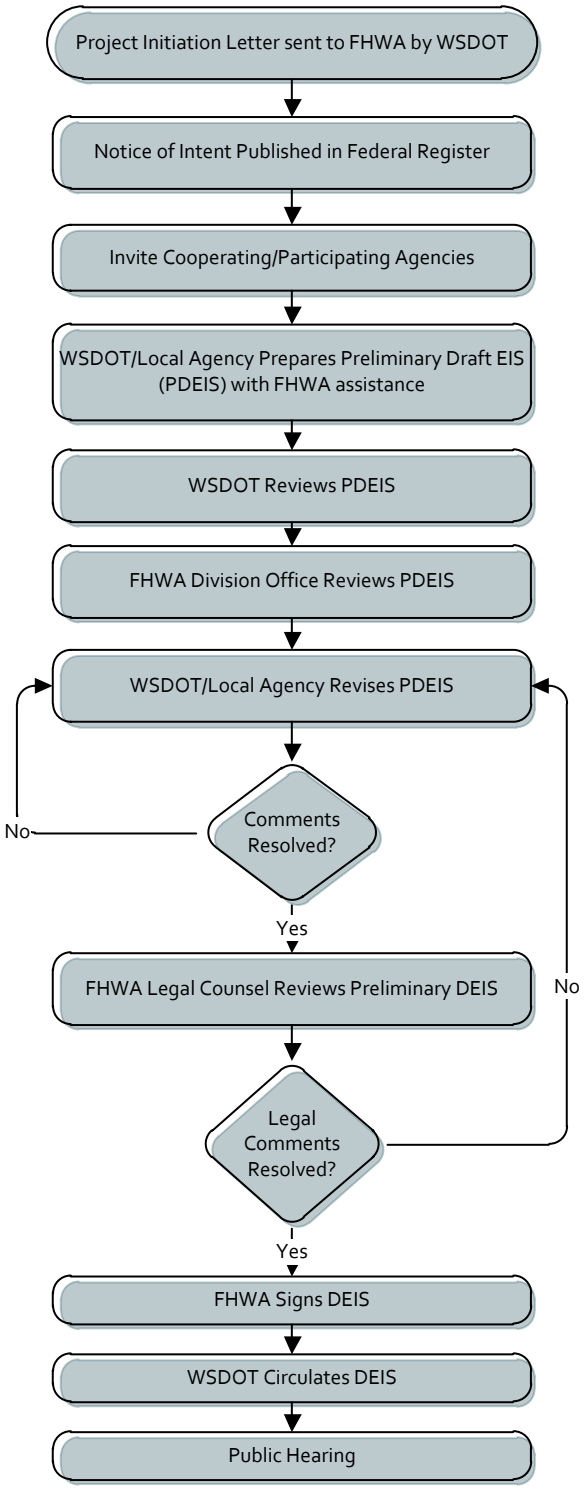
The AE/MPE will sign correspondence to resource and regulatory agencies, WSDOT, local agencies, other Federal agencies, interested parties and special interest groups.

VIII. FLOW CHARTS

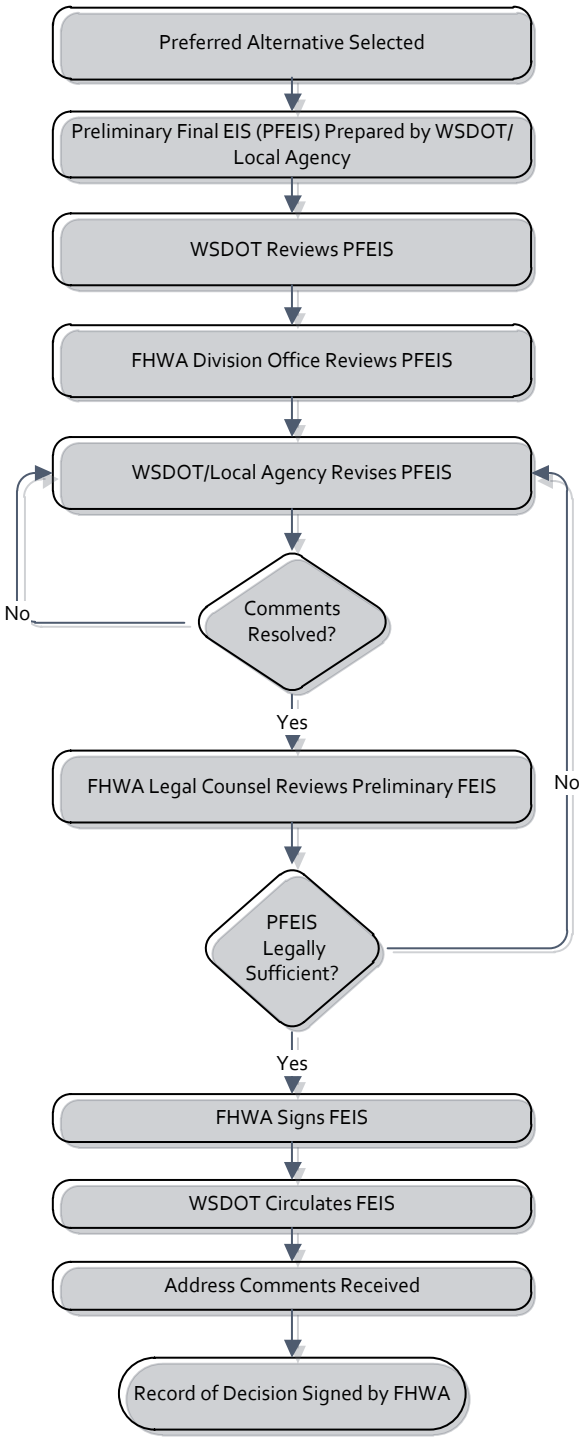
Overall NEPA Process



Simplified Draft EIS Process



Simplified Final EIS Process



IX. APPENDICES

The following Review Checklists should be filled out when reviewing the subject documents. They are intended to assist the reviewer with preparation of comments on the subject documents and should be retained in the Division Office project file.

Appendix A - Review Checklist for Environmental Assessment (EA)

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
			Cover Sheet – Ensure the following information is included:	
	Required			Title of the proposed action.
				Federal-aid Number (if assigned)
	Required			Shows route number or road name, county and state.
	Required			References NEPA and SEPA.
	Required			Identifies lead agency(s).
	Required			Lists cooperating agencies – *a cooperating agency should be listed if that agency has accepted cooperating agency status in writing, with documentation in appendix.*
	Required			Signature line for WSDOT submittal.
	Required			Signature line for FHWA Area Engineer/Major Projects Engineer approval.
	Required			Name, address and phone number of contacts (WSDOT & FHWA).
	Required			Comments are due by _____ and should be sent to _____.
			Summary (Optional) – Recommended for large EAs, but not required.	
				Briefly identifies Purpose and Need
				Briefly describes all reasonable alternatives including no-build.
				Major conclusions with summary comparative impacts and mitigation proposed for all reasonable alternatives and the no-build.
				Identification of the preferred alternative.
				Areas of controversy, substantive issues raised by agencies or public and issues remaining to be resolved.
			Table of Contents	
	Required		**Purpose and Need**	
				Introduction – Generally one page or less.
				If the Purpose and Need is based on a prior planning study include that information in the discussion.
				Purpose statement – brief and definitive. (see May 12, 2003 CEQ guidance letter and FHWA Technical Advisory T6640.8 A)
				Need explained– evidence that problem exists, factually and numerically based and support assertion made in the purpose statement.
				Goals and objectives explained – broad, environmental, regulatory, etc.
				Clear and legible exhibits and figures.
			Alternatives	
				Proposed action clearly defined.
				Logical Termini provided.
				Discussion of Independent Utility.

Check if Content is		Comment Sent to Project		Document Content
Included	Not Applicable			
				Reasonable alternatives to the proposed action developed and documented. Include brief discussion about TSM/TDM and no-build alternatives.
				Identification of the proponent's preferred alternative with summary of reasoning.
				Brief discussion and reasoning for elimination of any alternatives.
				Evaluation criteria were developed based upon the Purpose and Need?
				Preliminary screening for fatal flaws and unreasonable alternatives.
				Includes 'year of expenditure' cost estimates for reasonable alternatives.
				Legible tables and charts.
			Affected Environment and Environmental Consequences	
				If more than one build alternative is analyzed, direct effects (impacts) of all reasonable alternatives have been identified. (Includes no-build and proposed action).
				Does not duplicate discussion(s) in Alternatives chapter.
				Land use – Describe applicable land use plans, existing and proposed development and growth trends.
				Prime or unique farmland.
				Environmental Justice: -Minority or low income populations identified. Community character, social groups identified. Environmental context and community values. -Census block demographic data and economic information included. - Identify any disproportionately high and adverse impacts and discuss measures to avoid, minimize and mitigate them.
				Community Impacts - Community character and cohesion, context sensitive solutions
				Acquisitions/Relocations - Discussion of the number and type of relocations. Must reference the Uniform Act and if applicable describe the availability of safe and sanitary replacement housing for impacted residents and/or comparable lease or land for impacted businesses.
				Tribal concerns/issues - (Tribes with interest in the project area have been consulted).
				Traffic and Transportation - Describe exisiting traffic circulation and proposed traffic circulation for each alternative.
				Pedestrian and bicycle considerations- This should include discussion of compliance with the Americans with Disabilities Act.
				Air quality conformity both regional and project-level (hot spot).
				Global Climate Change - Does the document include the standard language and analysis methods found in WSDOT's climate change guidance?
				Hazardous waste sites identified
				Noise Identify receptors, results of modeling, and any proposed mitigation.
				Parks, forests, conservation areas, wildlife refuges and other Urban or rural areas with scenic or aesthetic importance have been identified.
				Water quality (surface, aquifers and TMDLs)

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
				Jurisdictional wetlands delineated and discussed.
				Floodplains identified.
				Wild and scenic rivers (or lack thereof) identified.
				Threatened and endangered species identified. (Informal or formal consultation with USFWS and NMFS ongoing).
				ESA Section 7 Biological Assessment(s) complete and relevant data in DEIS.
				Cultural, historic and archeological resources identified
				Potential Section 4(f) and Section 6(f) resources identified.
				Other natural resources (timber, rangeland, soils, minerals, aquifers, etc.) identified.
				Charts, exhibits and figures are clear and text is legible?
				Irreversible or irretrievable commitments of resources addressed in document?
				Indirect effects have been addressed and are clearly defined. – "…later in time or farther removed in distance, but are still reasonably foreseeable." (See 40 CFR 1508.8)
				Note: Indirect effects may be included as a subsection under each resource or as a section by itself, but must thoroughly address all issues.
				Cumulative effects have been addressed and are clearly defined. – "…results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions…" (See 40 CFR 1508.7) Note: Cumulative effects is a difficult section to complete correctly and requires careful scrutiny. Coordination with the Environmental Program Manager is recommended.
			Section 4(f)	
				If there are no Section 4(f) properties, no 4(f) information is required. If there are properties that some might consider 4(f), a clear statement of why they are not 4(f) should be included.
				If there Is only *de minimis* use or temporary occupancy of Section 4(f) resources, identify the 4(f) resources, describe the use or occupancy, and reference the written concurrence of the Official wth Jurisdiction, which should be included in an appendix.
				If there is non-*de minimis* use of a Section 4(f) resource, see the Section 4(f) Evaluation checklist (appendices F and G) for information on what must be included in the EA.
			List of Preparers	
				Includes list of persons primarily responsible for preparing document, together with qualifications.
			Index	
			Appendices	

Appendix B - Review Checklist for Finding of No Significant Impacts (FONSI)

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
			FONSI	
	Required			Title of the proposed action.
				Federal-aid Number (if assigned)
	Required			FONSI statement from FHWA Technical Advisory T 6640.8A
	Required			FONSI statement specifically references attached EA (including date of approval)
	Required			References NEPA.
	Required			Signature line and date for FHWA approval.
				One paragraph abstract of document.
				Clarification, additions and corrections to the EA
				Public coordination process – (public hearing notes and transcript if applicable)
				Comments and responses (may be in text form, matrix, or letter-by-letter depending on the volume of comments).
				Final Section 4(f) Evaluation if applicable
				Summary of impacts and mitigation (can be done as a table or matrix).
			Appendices	
				Circulated EA

Appendix C - Review Checklist for Draft Environmental Impact Statement (DEIS)

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
				Has FHWA HQ received the DEIS for review if Prior Concurrence is required?
			Cover Sheet – One Page	
	Required			Title of the proposed action (Matches official WSDOT title).
				Federal-aid Number (if assigned).
	Required			Shows route number or road name, county and state.
	Required			References NEPA and SEPA.
	Required			Identifies lead agencies.
	Required			Lists cooperating agencies – a cooperating agency should be listed if that agency has accepted cooperating agency status in writing, with documentation in appendix.
	Required			Signature line for WSDOT approval
	Required			Signature line for FHWA Area Engineer/Major Projects Engineer.
	Required			Name, address and phone number of contacts (WSDOT & FHWA).
				One paragraph abstract of document.
				Comments are due by _____ and should be sent to _____.
			Title VI Reference and Information about ADA and obtaining the document in other formats.	
			Summary (10-20 pages)	
				Introduction -- includes a brief history (if appropriate), description of the proposed action, roadway, logical termini, type of improvement, city/county and other information as applicable.
				Briefly identifies Purpose and Need (one – two paragraphs).
				Includes a brief description of all reasonable alternatives (including the no-build).
				Summary of major conclusions, comparative impacts and mitigation proposed for all reasonable alternatives and the no-build.
				Identification of the preliminary preferred alternative – if a preliminary preferred alternative has been identified by the proponent. Includes the reasoning for preference. If one alternative is being developed to a higher level of detail, a copy of FHWA's approval should be included in the appendix.
				Areas of controversy, substantive issues raised by agencies or public and issues remaining to be resolved.
			Purpose and Need	
				Introduction/History – One or two pages explaining proposed action, location, logical termini and activities leading up to the proposal.

Check if Content is		Comment Sent to Project		Document Content
Included	Not Applicable			
				If the Purpose and Need is based on a planning study, discussion of that study is included. The study may also be incorporated by reference or included as an appendix.
				Purpose and Need Statement - Briefly describe coordination with participating agencies.
				Location exhibit – includes a general vicinity map with existing/proposed alignment(s), terminal points, towns, waterways and relevant data. Text must be easily read.
				Need - Identifies a basic need: improve safety, reduce congestion, increase mobility, and provides multimodal options – (Not "meet standards, increase capacity, widen shoulders", and similar possible solutions). Factually and numerically based: (accident rates, traffic counts, LOS, public and agency input). The need statement does not limit the range of alternatives to something less than a reasonable range.
				Goals and Objectives - Primary goal is to address the project need, - Additional objectives could include: minimizing costs and adverse impacts, maintaining community character, preserving pristine setting, providing wildlife passage, enhancing community aesthetics, etc.
			Alternatives	
				Introduction: Describe the proposed action and how evaluation criteria were developed based upon purpose and need.
				Alternatives Developed: Briefly describe the wide range of conceptual alternatives initially developed. Describe the No-Build Alternative as a base line. Traffic System Management (TSM)/Travel Demand Management (TDM) and alternative transportation modes are also briefly discussed. *Note: An alternative is a single, unique proposal for a transportation improvement. Design options are often identified in the draft document.*
				Screening Process: Briefly describe process for eliminating alternatives and identify all alternatives eliminated from further study. Include discussion explaining coordination with participating agencies in accordance with the SAFETEA-LU 6002 process documented in WSDOT's Environmental Procedures Manual section 411.08.
				Reasonable Alternatives: Complete description of all reasonable alternatives carried forward for full analysis, including no-build and proposed action. Generally we recommend that between 2 and 4 build alternatives be analyzed.
				Comparison of Alternatives: Document provides a comparison of all reasonable alternatives, including, but not limited to; benefits (ability to meet P&N), impacts (social, environmental & economic), and proposed mitigation for each alternative.
				Includes 'year of expenditure' cost estimates for reasonable alternatives.
				Preferred Alternative: Complete explanation of the proponent's preferred alternative - if one has been identified during development of the DEIS.
				Alternatives Eliminated: Provide adequate explanation of why alternatives dropped from further consideration were eliminated.

Check if Content is		Comment Sent to Project	Document Content		
Included	Not Applicable				
			Affected Environment, Environmental Consequences, and Mitigation		
				Introduction: Briefly describe the resources/issues in the area that are potentially affected by the alternatives. If any of the resources listed below are not present in the project area identify them here and explain why they are not present or relevant. For each resource addressed, briefly describe the regulations relevant to that resource, the process of analyzing impacts of each reasonable alternative on each resource/issue and the mitigation (if any) proposed.	
				Project Area: Includes a description of the general project area.	
				Social, Environmental and Economic issues: **- If there is no potential for impacts:** Briefly identify all resources/issues that have no potential for impacts as a result of the project and why this determination was made. (For example, there may be no wild and scenic rivers, floodplains, wetlands, etc. in the project area, therefore, no potential for impacts would exist.) **-If there are potential impacts:** Succinctly describes the areas that may be affected -- concentrating on important issues. Note: Resources do not have to be in the following order, but must be considered if impacted. For each alternative identify the Direct Effects, the Indirect Effects, and the Mitigation. Below is further guidance on what should be included for each of these.	
				Direct effects: Discussion of analysis and potential direct impacts of Alternative A on the existing land use. (i.e.; conversion for right-of-way purposes) ***Indirect effects:*** Impacts that are removed by distance or time. (Induced growth, gradual degradation of a particular resource or changes in development patterns may be examples).*Note: Avoid the use of short-term, long-term, construction, post-construction and similar terms when explaining direct and indirect effects.* ***Mitigation:*** Clearly defined the commitment for mitigation of unavoidable impacts on affected environment. *Note: Avoid terms such as recommended, should, could, and similar words that cannot be described as a definite commitment.*	
					Land use – Describe applicable land use plans, existing and proposed development and growth trends.
					Prime or unique farmland.
					Environmental Justice: **-** Minority or low income populations identified. Community character, social groups identified. Environmental context and community values. -Census block demographic data and economic information included. - Identify any disproportionately high and adverse impacts and discuss measures to avoid, minimize and mitigate them.
					Community Impacts **-** Community character and cohesion, context sensitive solutions
					Acquisitions/Relocations **-** Discussion of the number and type of

Check if Content is		Comment Sent to Project	Document Content		
Included	Not Applicable				
					relocations. Must reference the Uniform Act and if applicable describe the availability of safe and sanitary replacement housing for impacted residents and/or comparable lease or land for impacted businesses.
					Tribal concerns/issues - (Tribes with interest in the project area have been consulted).
					Traffic and Transportation - Describe existing traffic circulation and proposed traffic circulation for each alternative.
					Pedestrian and bicycle considerations- This should include discussion of compliance with the Americans with Disabilities Act.
					Air quality conformity both regional and project-level (hot spot).
					Global Climate Change - Does the document include the standard language and analysis methods found in WSDOT's climate change guidance?
					Hazardous waste sites identified
					Noise Identify receptors, results of modeling, and any proposed mitigation.
					Parks, forests, conservation areas, wildlife refuges and other Urban or rural areas with scenic or aesthetic importance have been identified.
					Water quality (surface, aquifers and TMDLs)
					Jurisdictional wetlands delineated and discussed.
					Floodplains identified.
					Wild and scenic rivers (or lack thereof) identified.
					Wildlife and Habitat identified. (Upland, riparian, forests, fisheries, etc.)
					Threatened and endangered species identified. (Informal or formal consultation with USFWS and NMFS ongoing).
					ESA Section 7 Biological Assessment(s) complete and relevant data in DEIS.
					Cultural, historic and archeological resources identified
					Potential Section 4(f) and Section 6(f) resources identified.
					Other natural resources (timber, rangeland, soils, minerals, aquifers, etc.) identified.
			Cumulative Effects:		
					"…results from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions…" (See 40 CFR 1508.7) The cumulative effects discussion should focus on resources that are subject to additive effects; runoff, traffic, conversion of land use and farmlands, etc. *Note: Cumulative effects is a difficult section to complete correctly and requires careful scrutiny. Coordination with the Environmental Program Manager is recommended.*
					Relationship between short-term uses and long-term productivity.
					Irreversible or irretrievable commitments of resources addressed in document?

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
				Coordination with COE for applicable 404b(1) analysis complete?
			Section 4(f)	
				If there are no Section 4(f) properties, no 4(f) information is required. If there are properties that some might consider 4(f), a clear statement of why they are not 4(f) should be included.
				If there Is only *de minimis* use or temporary occupancy of Section 4(f) resources, identify the 4(f) resources, describe the use or occupancy, and reference the written concurrence of the Official wth Jurisdiction, which should be included in an appendix.
				If there is non-*de minimis* use of a Section 4(f) resource, see the Section 4(f) Evaluation checklist (appendices F and G) for information on what must be included in the DEIS.
			List of Preparers	
				Includes list of persons primarily responsible for reviewing or preparing document, together with their qualifications.
			Comments and Coordination	
				Summary of public meetings; comments and issued raised. Official correspondence with resource agencies/city/county official may be included if pertinent and substantial.
			Index	
				The index is a very important part of an EIS and should be comprehensive enough to be useful to the reader. It should include all the major NEPA subject areas.
			Appendices	

Appendix D - Review Checklist for FINAL Environmental Impact Statement (FEIS)

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
				Coordination with FHWA HQ for any necessary prior concurrence is ongoing.
			Cover Sheet	
				Draft EIS modified to reflect Final EIS status (i.e.; Global search and replace of Draft to Final; 23 CFR 771.123 changed to 771.125, etc.)
			Executive Summary	
				Concise, complete summary of document – follows DEIS format.
				Corrections and clarifications from DEIS have been addressed
				A careful review of necessary changes from DEIS has been completed and edits made.
				Any references to a preliminary preferred alternative have been appropriately edited to a preferred alternative. *Note:* It is still a 'preferred alternative'. The final build (selected) alternative will be identified in the Record of Decision (ROD).
			Purpose and Need	
				Finalize purpose and need statement.
				Finalize needs and objectives sections.
			Alternatives	
				Finalize edits due to public comments and DEIS reviews.
				Additional design/analysis information for the preferred alternative is allowable under new regulations. Must not affect decision for preferred.
			Affected Environment, Environmental Consequences, and Mitigation	
				Careful review of public comments to ensure they are summarized in the document and that appropriate edits to document have been made. The extent of changes needed will depend on whether one of the Draft alternatives is chosen, or if a hybrid alternative is chosen, as well as the amount of changes made to the alternative based on DEIS comments.
				Section 106 determinations of eligibility and effect are complete with SHPO concurrence in appendices.
				Biological assessment, T&E consultation (Section 7) complete and documented.
				Legal sufficiency review comments have been incorporated/addressed.
				Mitigation for unavoidable impacts has been clearly defined in the form of impacts and commitments.
			Section 4(f) Evaluation	
				Final Section 4(f) evaluation (full and/or *de minimis*) complete. Final. *de*

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
				minimis includes 106 concurrence, *de minimis* finding and exhibits (with concurrence of official with jurisdiction or concurrence in effect and finding notification to SHPO).
			List of Preparers	
				Includes list of persons primarily responsible for preparing document, together with qualifications – ensure updates and corrections have been made.
			Index and/or Appendices	
				Ensure all referenced exhibits and figures are actually included and legible.

Appendix E - Review Checklist for Record of Decision (ROD)

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

Check if Content is		Comment Sent to Project	Document Content
Included	Not Applicable		
			Follows direction provided in 40 CFR 1505.2 (CEQ regulations) and FHWA Technical Advisory T 6640.8A
			References the Final Environmental Impact Statement.
			Clearly states what the decision is and identifies the selected alternative. Briefly explains reasoning for selection.
			Briefly identifies all reasonable alternatives considered in FEIS.
			Identifies the environmentally preferred alternative and why it was not selected (if that's the case).
			Summarizes basis for Section 4(f) approval (if applicable), including key information for such approval.
			States whether all practicable means to avoid and minimize environmental harm have been adopted, and if not, why they were not.
			Briefly describes any monitoring program(s) identified in the FEIS.
			Includes a summary of impacts due to the selected alternative and required mitigation. *Note: This is a critical part of the NEPA process and this section if often utilized during project development. Extra care in semantics and intent for clarity is warranted.*
			Comment/response matrix from public review of FEIS.

Appendix F - Review Checklist for Draft Full Section 4(f) Evaluation

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

NEPA Document Type (CE/EA/EIS): _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
			Title Page - for Stand-Alone 4(f) Evaluations (usually done for Categorical Exclusion projects)	
				Titled - Draft Section 4(f) Evaluation
				Introduction. Project name, number and Federal-aid Number, route number, county and state.
				Identifies lead agency(s).
				Signature line for FHWA approval.
				Brief abstract of Project
			The remainder of the 4(f) Evaluation should include the following regardless of whether it is a stand-alone 4(f) Evaluation or incorporated into an EA or EIS as a chapter or attachment.	
			Proposed Action	
				Explain the purpose and need for the project. (Can reference back to earlier discussion in the case of an EA or EIS).
				Complete description of the action proposed in the NEPA document. (Can reference back to earlier discussion in the case of an EA or EIS).
				In the case of a DEIS where multiple alternatives are being considered, reference the description of the preferred alternative in the DEIS. If no preferred alternative exists at the DEIS stage, the Draft Section 4(f) Evaluation needs to evaluate uses from all reasonable alternatives. A comparison matrix is usually beneficial.
			Section 4(f) Resources	
				Describe the Area of Potential Effect (APE) and Section 4(f) resources. Exhibits or maps are extremely beneficial - they should show the boundaries of the Section 4(f) properties and the proposed ROW limits.
				Include a listing or table of parks and recreation sites as well as NRHP-listed or eligible sites with determinations of effect (from Section 106/SHPO concurrence process).
			Section 4(f) Uses	
				Identify Section 4(f) uses that would result from implementation of proposed action. (Direct use, adverse temporary or constructive use) *Note: constructive use determination requires HQ concurrence.*
				Quantify and qualify uses to determine if some can be addressed with programmatic agreements or *de minimis*. Use most efficient method for compliance.
				Avoidance Alternatives - Develop and discuss avoidance alternatives for uses other than *de minimis*. Avoidance alternatives may be outside of the

Check if Content is		Comment Sent to Project		Document Content
Included	Not Applicable			
				range of alternatives studied in the NEPA document.
				Measures to minimize harm - Identify measures to minimize harm for all uses.
				Least Overall Harm Alternative - Ensure that all seven of the factors found in 23 CFR 774.3 (c)(1) are addressed.
				Preliminary legal sufficiency review completed.
				Coordination, including 45 day review period to DOI, et al completed. For an EA or EIS project, this coordination becomes part of the NEPA public review process - which may extend the comment period for the EA.

Appendix G - Review Checklist for Final Full Section 4(f) Evaluation

Project Name: _____

Project Number: _____ Date: _____

Reviewer: _____

NEPA Document Type (CE/EA/EIS): _____

Check if Content is		Comment Sent to Project	Document Content	
Included	Not Applicable			
			Title Page - for Stand-Alone 4(f) Evaluations (usually done for Categorical Exclusion projects)	
				Titled - Draft Section 4(f) Evaluation
				Introduction. Project name, number and Federal-aid Number, route number, county and state.
				Identifies lead agency(s).
				Signature line for FHWA approval.
				Brief abstract of Project
			The remainder of the 4(f) Evaluation should include the following regardless of whether it is a stand-alone 4(f) Evaluation or incorporated into an EA or EIS as a chapter or attachment.	
			Proposed Action	
				Explain the purpose and need for the project. (Can reference back to earlier discussion in the case of an EA or EIS).
				Complete description of the action proposed in the NEPA document. (Can reference back to earlier discussion in the case of an EA or EIS).
			Section 4(f) Resources	
				Describe the Area of Potential Effect (APE) and Section 4(f) resources. Exhibits or maps are extremely beneficial - they should show the boundaries of the Section 4(f) properties and the proposed ROW limits.
				Identify all parks and recreation sites in the project's APE, as well as NRHP-listed or eligible sites with determinations of effect (from Section 106/SHPO concurrence process).
			Section 4(f) Uses	
				Describe the Area of Potential Effect (APE) and Section 4(f) resources. Exhibits or maps are extremely beneficial - they should show the boundaries of the Section 4(f) properties and the proposed ROW limits.
				Identify all parks and recreation sites in the project's APE, as well as NRHP-listed or eligible sites with determinations of effect (from Section 106/SHPO concurrence process).
			Section 4(f) Uses	
				Identify Section 4(f) uses that would result from implementation of proposed action. (Direct use, adverse temporary or constructive use) *Note: constructive use determination requires HQ concurrence.*
				No feasible and prudent alternative - Include a discussion of the reasons for concluding that there is no feasible and prudent alternative to the use of the Section 4(f) resource(s).

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Included	Not Applicable			
				Least Overall Harm Alternative - Ensure that all seven of the factors found in 23 CFR 774.3 (c)(1) are addressed.
				Preliminary legal sufficiency review completed.
				Coordination - Include a summary of the coordination with DOI, et al.
				Response to Comments - Include response to any comments received on the Draft Section 4(f) Evaluation.
				Concluding Statement - *Based on the above considerations, there is no feasible and prudent alternative to the use of the Section 4(f) resources identified herein and the preferred alternative includes all possible planning to minimize harm resulting from such use.*
				Legal Sufficiency - Final Legal Sufficiency review completed.