

- 610.01 Introduction
- 610.02 Policy Guidance
- 610.03 Interagency Agreements
- 610.04 Permits and Approvals
- 610.05 WSDOT Municipal Stormwater Permit Requirements
- 610.06 Industrial Stormwater General Permit Requirements
- 610.07 State Waste Discharge Permit Requirements
- 610.08 Underground Injection Control Program Requirements
- 610.09 WSDOT Roles and Responsibilities
- 610.10 Exhibits

610.01 Introduction

This chapter summarizes the environmental requirements affecting WSDOT during a project's construction phase. Commitments contained in policy guidance, interagency agreements, NEPA/SEPA documents and permits and approvals, which are the responsibility of the contractor, are included in contract documents for implementation during construction (see [Chapter 590](#)). The *Standard Specifications for Road, Bridge, and Municipal Construction* M 41-10 (*Standard Specifications*) are the basis of the contract between WSDOT and the contractor. Special provisions are written into each contract to either amend or replace part of the *Standard Specifications* based on the judgment of the Design Engineer.

[Chapter 690](#) reviews how environmental commitments apply during the construction process. These include:

- Contractor and WSDOT responsibilities for commitments.
- Monitoring for environmental compliance.
- Ensuring appropriate pass-off to the Maintenance Office for long-term maintenance of some commitments.

Environmental commitments are generated from many different documentation and permitting efforts.

(1) **Correlation With WSDOT [Construction Manual M 41-01](#)**

WSDOT [Construction Manual](#) M 41-01 covers all aspects of construction management, including environmental compliance, and has been referenced throughout in this section. However, it should be noted that this EPM represents WSDOT's most current information on federal, state, and local environmental requirements. The WSDOT [Construction Manual](#) should be consulted for overall WSDOT construction procedures and requirements. For a specific project, the contract specifications take precedence.

(2) FHWA Requirements

Federal funds for construction of highways, roads, streets and bridges and other transportation facilities are subject to federal laws, executive orders, regulations, and agreements. The federal government provides transportation funding to Washington State through the Federal Highway Administration (FHWA).

FHWA approves all programs for federal highway funds and, where Interstate funds are involved, approves individual project plans and specifications. FHWA may conduct final inspection to verify substantial compliance with the approved Federal aid program.

FHWA provides oversight of WSDOT work on some projects, and has delegated that responsibility to WSDOT or others. In accordance with the Construction Monitoring Plan, which is part of the WSDOT/FHWA stewardship agreement, the project type and size determine whether FHWA, the Construction Office, or region will conduct the inspections and reviews necessary to verify adequate compliance with federal rules, regulations and procedures.

See [Section 690.02](#) for FHWA's role in final inspection and approval of highway projects.

610.02 Policy Guidance

The most important policy guidance is the WSDOT Environmental Policy Statement [E 1018](#) signed by Secretary Paula Hammond on April 7, 2009. That policy (issued by executive order) makes it clear WSDOT will comply with all applicable environmental laws, regulations and other commitments and that it is the responsibility of each individual employee to make sure that happens.

In the event that environmental compliance is not obtained, WSDOT has guidance that must be followed. The purpose of the Environmental Compliance Assurance Procedure is to recognize and eliminate environmental violations during the construction phase on Washington State Department of Transportation (WSDOT) construction sites, and to ensure prompt notification to WSDOT management and agencies (see [Exhibit 610-1](#)). For purposes of this procedure, violations are defined as actions that are not in compliance with environmental standards, permits, or laws.

610.03 Interagency Agreements

This section lists the interagency agreements that have requirements applicable to construction. [Chapter 620](#) references agreements applicable to each element of the environment. Further information on agreements is found in [Chapter 420](#) through [Chapter 470](#). These interagency agreements are listed in [Appendix A](#).

(1) Memorandum of Understanding on Environmental Issues

This August 1988 MOU between WSDOT and Ecology describes procedures that the two agencies will use to enhance coordination and cooperation on environmental issues in order to provide for timely and efficient review of

environmental documents and permit applications. It also provides authority for and directs the two agencies to develop and execute implementing agreements for specified program-specific areas as supplements to the MOU. With regard to construction, the MOU indicates that WSDOT will educate project inspectors to be aware of Ecology's areas of regulation and enforcement and immediately investigate any permit violations identified by Ecology.

(2) Compliance Implementing Agreement

The November 2004 Compliance Implementing Agreement between WSDOT and Ecology is designed to assist in obtaining and maintaining WSDOT compliance with state surface water quality standards, including compliance with Section 401 Certifications, Section 402 NPDES permits, and other Ecology Orders and approvals. That agreement stipulates the following:

- All project commitments are clearly communicated to contractor, construction project office staff, and supporting design offices.
- All sensitive areas are fenced as a first order of work.
- Inspectors be assigned to monitor for environmental compliance.
- WSDOT PE notifies Ecology prior to beginning work.
- PEs must consult with environmental inspector to ensure work in sensitive areas is compliant.
- WSDOT must develop and implement a commitment tracking system.
- Ensure all WSDOT commitments have been completed prior to completion of the project and commitments, and long-term maintenance needs have been communicated to Maintenance and Operations.

(3) May 2008 MOA Between WSDOT and WDFW

This May 2008 agreement between WDFW and WSDOT replaces previous agreements including work in state waters (6/02). See [Section 436.04](#).

The MOA describes how WSDOT and WDFW will cooperate to ensure that state transportation projects protect fish life and habitats, and ensure consistent and uniform application of [RCW 77.55](#) (construction in state waters), [WAC 220-110](#) (hydraulic code rules), [RCW 77.57](#) (fishways, flow, and screening), and facilitate the implementation of the Chronic Environmental Deficiency Program.

Provisions applicable to construction are:

- WSDOT will train project inspectors on how to monitor projects for HPA compliance.
- If project design changes or circumstances arise requiring change in design or construction, WSDOT contacts WDFW to discuss potential modifications to HPA.

(4) *MOU on Highways Over National Forest Lands*

This March 2002 MOU establishes procedures for coordinating transportation activities on National Forest lands. See [Section 450.04](#).

Provisions applicable to construction:

- WSDOT will inform USFS of project advertisement and award.
- Significant changes in right of way during construction will require an amendment to the recorded easement deed.
- WSDOT will notify and obtain approval from USFS for any changes that will affect national forest lands.
- WSDOT will notify USFS when project nears completion; USFS will indicate if they want to participate in the final review.

610.04 Permits and Approvals

Resource and regulatory agencies responsible for water quality, wildlife and fisheries, flood control, land development, forestry, and other environmental issues may need to be consulted during the construction process.

Each permit or approval issued by these agencies is an agreement between WSDOT and the agency on how WSDOT will conduct its work. The contract is an agreement between WSDOT and the contractor on getting the work done. The Project Engineer needs to monitor contractors to ensure that the conditions of all permits are followed and that all commitments are implemented. Without “due diligence,” WSDOT may be legally liable for damages if conditions of permits and interagency agreements are not met. Not fulfilling environmental commitments can have a very negative impact on a project’s scope, schedule and budget. The [Construction Manual](#) addresses the relationship between the Project Engineer, inspectors, contractors, and resource agency staff. In general the Project Engineer should ensure that WSDOT and its contractors fulfill any commitments made on the part of the project.

When the contractor is required specifically by the contract to obtain approval from other agencies, the Project Engineer shall confirm that approval was received by obtaining a copy of the approval. The Project Engineer or inspector should accompany any representative of the regulatory agency who visits the project site.

When a contract includes work on Tribal lands, the contract should include a special provision alerting the contractor of special requirements.

See [Chapter 620](#) for specific permits likely to have construction-related conditions for each element of the environment. Detailed guidance on all permits are found on the WSDOT [Federal, State, and Local Permits](#) web page. See WSDOT [Construction Manual](#) M 41-01 Chapter 1, Sections 1.7 and 2.2.

610.05 WSDOT Municipal Stormwater Permit Requirements

Federal and state regulations require the Washington State Department of Transportation (WSDOT) to obtain general permit coverage for discharges from many of its municipal separate storm sewers. Issued by the Washington State Department of Ecology, the *WSDOT National Pollutant Discharge Elimination System (NPDES) and state wasted discharge permit for municipal stormwater* authorizes stormwater discharges from municipal separate storm sewer systems (MS4) for a five-year period.

The permit provides coverage for MS4 discharges within the Phase I and II designated permit boundaries that existed on January 17, 2007. The permit also applies to MS4 discharges to any water body segment in Washington State for which there is a U.S. Environmental Protection Agency approved total maximum daily load with waste load allocations and a Detailed Implementation Plan specifying actions for WSDOT stormwater discharges.

The permit requires implementation of a Stormwater Management Program Plan (SWMPP). The SWMPP prescribes the procedures and practices used to reduce the discharge of pollutants in stormwater runoff.

Concurrent with permit issuance, WSDOT adopted an *implementing agreement* in accordance with the Memorandum of Understanding between the Washington State Departments of Ecology and Transportation Regarding Environmental Issues under Department of Ecology Jurisdiction, executed August 4, 1988. Under this agreement, WSDOT agrees to apply the *Highway Runoff Manual* M 23-03 statewide to direct the planning, design, construction, and maintenance of stormwater management facilities for new and redeveloped Washington State highways, rest areas, park-and-ride lots, ferry terminals, and highway maintenance facilities. The agreement remains in effect for five years beginning at the date of issuance of WSDOT's municipal stormwater permit (i.e., February 4, 2009).

The terms and conditions of the WSDOT municipal stormwater permit are subject to appeal within 30 day of issuance.

610.06 Industrial Stormwater General Permit Requirements

Federal and state regulations require facilities to obtain general permit coverage when conducting industrial activities that discharge stormwater to a surface water body or to a storm sewer system that drains to a surface water body. Issued by the Washington State Department of Ecology as a combined National Pollutant Discharge Elimination System (NPDES) and state wasted discharge permit, the *Industrial Stormwater General Permit* authorizes stormwater discharges from industrial facilities for a five-year period. Facilities that have no industrial activities or materials exposed to stormwater may be eligible for a “conditional no exposure certificate.”

Currently, the only Washington State Department of Transportation (WSDOT) facility requiring coverage under the Industrial Stormwater General Permit is the Washington State Ferries Division (WSF) Eagle Harbor maintenance facility located on Bainbridge Island.

The permit requires development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) and stormwater sampling for applicable industrial facilities.

The terms and conditions of the Industrial Stormwater General Permit are subject to appeal within 30 day of issuance.

610.07 State Waste Discharge Permit Requirements

The Washington State Department of Ecology (Ecology) issues [wastewater discharge permits](#) to control the discharge of wastewater to surface or ground waters and to publicly-owned sewage systems. These permits place limits on the quantity and concentrations of contaminants that may be discharged. When necessary, permits require treatment of wastewater or impose other operating conditions on dischargers.

Ecology issues two types of state waste discharge permits. Individual permits cover single, specific facilities or activities. General permits cover a category of similar dischargers. Individual and general permits may be issued either as a state waste discharge permit or a National Pollutant Discharge Elimination System (NPDES) permit. Discharges to surface waters and to ground or a treatment plant are often covered by a combined NPDES/state waste permit. For example, the NPDES and state waste discharge permits are combined for the Construction Stormwater, Sand and Gravel, Industrial Stormwater, and WSDOT Municipal Stormwater General Permits.

These permits typically authorize discharges for a five-year period. The terms and conditions of state waste discharge permits are subject to appeal within 30 days of issuance.

610.08 Underground Injection Control Program Requirements

The Washington State Department of Ecology's (Ecology) [Underground Injection Control \(UIC\) program](#) regulates the disposal of fluids into the subsurface to protect groundwater quality except for UIC wells located on tribal land. U.S. Environmental Protection Agency (EPA), Region 10 regulates UIC wells on tribal land.

The UIC program defines injection wells as artificial or improved holes in the ground, deeper than they are wide at the ground surface; or improved sinkholes or sub-surface fluid distribution systems. They are used to release or dispose of fluids underground (e.g., manage stormwater, dispose sanitary sewage, or clean up contaminated sites). A fluid is defined as any flowing matter, regardless of whether it is in a semisolid, liquid, sludge, or gaseous state.

The UIC program requires:

1. Owners to [register](#) their injection wells with Ecology (or with EPA Region 10, if the wells are located on tribal land), whether or not they are in use.
2. Injection wells to meet a non-endangerment performance standard to prevent the movement of fluids containing any contaminant into groundwater.

610.09 WSDOT Roles and Responsibilities

(1) Headquarters

- (a) **Highway Construction Management** – The Headquarters Construction Office strives for consistent, cost-effective high quality construction through direct support of WSDOT’s regional construction program. The Construction Office coordinates the development of policies and standards, provides training, guidance, oversight, technical expertise and advocacy; introduces innovation; and coordinates and shares information on construction issues. See WSDOT’s *Construction Manual* M 41-01 Section 1-1.4.

The State Construction Engineer is responsible for all WSDOT contract construction projects, except those executed by the Director of Washington State Ferries. The State Construction Engineer is responsible for providing guidance and direction to regional and Headquarters construction personnel. He or she establishes WSDOT policy relative to inspection and documentation and ensures uniform interpretation and enforcement of the *Standard Specifications* and contract provisions throughout the state. The State Construction Engineer is assisted by principal assistants in Administration, Roadways, and Bridges.

Construction Administration – The Construction Engineer, Administration, sets requirements for contracting, policy, and responds to questions from the regions on all issues pertaining to Division 1 of the *Standard Specifications* and Chapters 1 and 10 of the *Construction Manual*.

Roadways – The Construction Engineer, Roadways, is responsible for all civil highway construction such as grading, drainage, surfacing, paving, signing, guard rails, illumination, traffic signals, landscaping, and rest areas.

Bridges – The Construction Engineer, Bridges, is responsible for construction of bridges, retaining walls, and related structural elements associated with highway construction.

- (b) **Environmental Services Office** – Environmental Services Office (ESO) staff offers expertise in environmental issues as a resource to Headquarters and regional personnel during project construction. While project-specific questions should always be addressed first to regional environmental staff, ESO can provide regulatory, technical, advocacy, training, and logistical support.

(2) Regional Offices

Regional Construction Offices are responsible for delivering the construction phase of the WSDOT's projects. This includes ensuring that projects fulfill commitments made during Design and PS&E as well as complying with WSDOT's *Standard Specifications*, *General Special Provisions*, and generally applicable laws.

Regional environmental offices provide technical assistance, regulatory interpretation and any post-advertisement environmental permitting and compliance work the project may need. Each region has a 24-hour environmental contact to provide that support. Each region has its own program to support Construction Offices, outlined in its [Construction Compliance Plan](#).

(3) Ferries, Rail, and Aviation

- (a) **Washington State Ferries** – Ferry facility construction and maintenance are the responsibility of the Director of WSF.
- (b) **Rail** – Construction and maintenance of rail facilities and disposal of surplus property are the responsibility of Burlington Northern and other railway companies, as owners of the facilities.
- (c) **Aviation** – Aviation facility construction and maintenance are the responsibility of the Director of the Aviation Division.

610.10 Exhibits

[Exhibit 610-1 Environmental Compliance Assurance Procedures Flowchart](#)



