

Chapter 710

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710.01 Introduction

Many environmental commitments made earlier in the WSDOT transportation decision-making process are implemented in maintenance and operations activities. For example, permits issued before a project is constructed may include plans for long term revegetation and restoration; wetland mitigation site maintenance; and spill prevention, control, and countermeasures (SPCC). This chapter summarizes the source of these commitments in policy guidance, interagency agreements, and permits and approvals, with reference to information in **Part 4** and **Part 5**.

710.02 Policy Guidance

A WSDOT Environmental Policy Statement issued by executive order on April 7, 2009) makes it clear that WSDOT will comply with environmental requirements and that it is each individual employee's responsibility to ensure that happens. The policy statement is available online at:

🔗 <http://www.wsdot.wa.gov/environment/policystatement.htm>

As stated above, the environmental requirements applicable to maintenance and operations activities are spelled out in the interagency agreements and permits and approvals referenced in this chapter. These include a Regional Road Maintenance Program (RRMP) approved by NOAA along with some *Regional Road Maintenance Endangered Species Act Program Guidelines* that include various general practices and specific practices (such as BMPs) that WSDOT will use to avoid and minimize adverse impacts to fish and aquatic habitat. In areas where none of the referenced documents apply, and there is potential for a maintenance activity to harm a fish or aquatic habitat protected under the ESA, BMPs will still be utilized to avoid and minimize adverse impacts. BMPs will generally be used for activities conducted within

*Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the WSDOT Environmental Services Office (ESO) home page: <http://www.wsdot.wa.gov/environment/>

300 feet of protected riparian areas. BMPs will also be used where some type of conveyance, such as a roadside ditch or channel, serves to potentially convey impacts beyond a 300-foot buffer. To assure adequate usage of BMPs, WSDOT is identifying, mapping, and marking sensitive areas so maintenance field personnel know where to apply protective BMPs.

In some areas of Washington State (most notably the more arid parts of central and eastern Washington) highway maintenance activities have no potential to harm protected fish or aquatic habitat, simply because there is no habitat, fish, or conveyances to fish habitat in these areas. Under these circumstances, maintenance superintendents determine the need to use BMPs for operational efficiencies. See the *Regional Road Maintenance Endangered Species Act Program Guidelines* at:

☞ <http://www.wsdot.wa.gov/maintenance/roadside/esa.htm>

WSDOT uses statewide Regional Maintenance Environmental Coordinator Meetings to identify and announce any modifications or changes to the Regional Road Maintenance Program (RRMP). New technologies are also discussed at these meetings. Modifications are shared with NOAA Fisheries for concurrence to maintain the status of “ESA compliant.” Additional forums are utilized or created if needed to adequately include key stakeholders (i.e., federal and state regulatory agencies and additional WSDOT personnel) in changes of applicable environmental protection practices.

710.03 Interagency Agreements

Appendix E-1 includes an index to all of WSDOT’s environmental interagency agreements, in the form of Memoranda of Understanding (MOUs), Memoranda of Agreement (MOAs), or Implementing Agreements. **Appendix E-1** also includes a matrix and an accompanying narrative showing which agreements have provisions applicable to maintenance and operations. These are summarized in this section.

These interagency agreements are accessible on line at:

☞ <http://www.wsdot.wa.gov/environment/compliance/agreements.htm>

(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 maintenance, the MOU indicates that WSDOT will 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.

This agreement, which primarily applies to compliance during the construction phase, includes a provision that maintenance and operations staff have received a copy of and understand all long-term compliance expectations, including mitigation site monitoring and maintenance.

(3) **Implementing Agreement on State Surface Water Quality Standards**

The February 1998 Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards, currently being revised, is intended for use by WSDOT and WSDOT contractors. The agreement covers general conditions for concrete work, erosion control, hazardous spill prevention and control, spill reporting, and specific provisions for erosion control in new roadway and bridge construction projects. (See **Section 430.04.**)

The Implementing Agreement also covers activity-specific conditions for the highway and ferry system maintenance activities listed below. Note that many of these activities are also covered by more recent General (programmatic) NPDES and Hydraulic Project Approval permits; see **Section 540.08** and **Section 540.15**, respectively, for details.

- Beaver dam removal
- Ferry system maintenance pile driving and removal
- Highway bridge and ferry terminal transfer span cleaning and painting
- Bridge pier, structure, bridge protection device, stream bank and roadway protection maintenance and repair.
- Debris removal from bridge piers, piles, braces and abutments
- Ditch, stream, and culvert cleaning and maintenance
- Ferry sacrificial structures, wing walls, dolphins
- Maintenance and relocation of navigation buoys
- Maintenance of stormwater control and treatment structures

The General NPDES and General Hydraulic Project Approval (GHPA) permits are available online at:

☞ <http://www.wsdot.wa.gov/environment/Programmatics/>

(4) MOA Concerning Work in State Waters

This June 2002 agreement between WSDOT and WDFW replaces previous agreements including Compliance with the Hydraulic Code (8/90), Fish Passage Guidelines – Culvert Installations (8/90), and Work in State Waters (12/96). See **Section 430.04**.

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) and WAC 220-110 (hydraulic code rules). It includes procedures for emergency/disaster maintenance and repair. **Appendix F** is maintenance guidelines.

(5) Implementing Agreement – Alternative Mitigation Policy Guidance for Aquatic Permitting

In this February 2000 agreement, WSDOT agrees to comply with consensus on mitigation policy among agencies responsible for aquatic resource mitigation. Applies to Ecology and WDFW in issuing or reviewing permits, documents, appeals or compensation agreements under Clean Water Act, Shoreline Management Act, or Hydraulic Code. See **Section 430.04**.

Provisions applicable to maintenance and operations:

- Monitoring is required. If mitigation is failing and corrective actions not successful, applicant must contact permitting agencies and use an adaptive management approach to achieve stated performance standards.
- Compliance monitoring may be performed by agencies.
- Mitigation site to be protected permanently or at least for the life of the project.

(6) MOA – Wetland Compensation Banking

This February 1994 agreement between WSDOT, Ecology, WDFW, and several federal agencies, establishes principles and procedures for establishing, implementing, and maintaining the WSDOT wetland compensation bank program. See **Section 431.04**.

Requirements for inspections and monitoring.

- Semi-annual inspections for five years after as-builts accepted, and annually thereafter.
- WSDOT will use inspection checklist in **Appendix E** to document inspections.
- **Appendix F** is elements of a monitoring plan and report, includes monitoring checklist
- WSDOT retains responsibility for inspections if management and maintenance of the site is transferred to another agency or entity.

(7) MOU on Preservation of Agricultural and Forest Lands

This September 1982 agreement between WSDOT and the State Conservation Commission is intended to enhance cooperation in preserving agricultural and forest land, to prevent and treat erosion adjacent to or associated with farmlands and state highways, and maintain drainage ways and reclaim abandon roadways for agricultural purposes. See **Section 450.04**.

The agreement commits WSDOT to work with conservation districts through county weed control boards or appropriate county officials to control noxious weeds.

(8) 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 maintenance and operations:

- WSDOT will coordinate with USFS on maintenance activities that might affect national forest lands, including: removal/disposal of dangerous trees, disposal of slash or other waste, material source or storage, changes to drainage patterns, snow and avalanche control, and rock scaling.
- WSDOT will work with USFS to develop roadside vegetation management plans.
- WSDOT will furnish and maintain all standards highway signs, including guide signs requested by the USFS.
- WSDOT will coordinate with USFS for third party occupancy or use by utility facility installations on WSDOT easements.
- Specifies responsibilities for signage for maintenance or emergency activities.
- Specifies responsibilities for control of access to WSDOT easements by USFS or its permittees.

710.04 Permits and Approvals

Permits and approvals applicable to WSDOT activities are described in detail in **Chapter 520** through **Chapter 550**. Most WSDOT maintenance activities are covered by general or programmatic permits (particularly ESA Section 4(d), **Section 520.08**; NPDES permits, **Section 540.08**; and HPAs, **Section 540.15**). However, some WSDOT maintenance activities are required to obtain individual permits from federal, tribal, state, or local authorities. Permit conditions provide for protection of water quality, fish, and their habitat, and other elements of the environment.

More than one permit from more than one agency may be required for work in streams or fish-bearing waters. The most common restriction has to do with timing. Normally, these restrictions will require that work be done during low flow conditions to minimize impacts to fish and water quality. (*Roadside Manual* M 25-30, p. 440-11.)

Additionally, when maintenance activities are carried out on tribal lands, environmental protection measures may be required by the tribal government or the U.S. Environmental Protection Agency (USEPA). Local governments also have authority to issue permits regulating activities in their jurisdiction. It is the responsibility of the Regional Maintenance Environmental Coordinator to obtain permits when necessary.

(1) Federal

National Environmental Policy Act (NEPA), 42 USC 4321; 40 CFR Part 1500 (CEQ); 23 CFR 771 (FHWA). See Chapter 410 and Chapter 411.

Clean Water Act, Section 404 permit, administered by the U.S. Army Corps of Engineers, required occasionally for bank stabilization projects. See **Section 520.02**.

Rivers and Harbors Act of 1899, Section 10 permit, administered by the U.S. Army Corps of Engineers, required occasionally for bank stabilization projects. See **Section 520.03**.

Endangered Species Act (ESA) compliance – See **Section 436.02**, **Section 520.08**, and **Section 436.05**.

(2) Tribal

See **Chapter 530** for permits and approvals that may be needed on tribal land or for activities affecting usual and accustomed fishing and hunting rights guaranteed by treaty.

(3) State

State Environmental Policy Act (SEPA), RCW 43.21C and WAC 197-11. See **Chapter 410** and **Chapter 411**.

Washington State Department of Natural Resources (DNR), Aquatic Lands Use Authorization (Aquatic Lease), RCW 79.105 through 79.140, and WAC 332-30. See **Section 540.16**.

Coastal Zone Management Consistency Certification, Washington State Department of Ecology. See **Section 540.03**.

Hydraulic Project Approval (HPA), RCW 77.20 and WAC 220-110, administered by WDFW. A General HPA covers specific WSDOT maintenance activities, including removal of beaver dams; see **Section 540.15**.

NPDES Construction Stormwater Permit. See **Section 540.04** through **Section 540.08**.

Minimal Functional Standards for Solid Waste Handling, WAC 173-304, and Washington State Dangerous Waste Regulations, WAC 173-303. See **Section 447.05**.

(4) Local Governments

Critical/Sensitive Areas Ordinances adopted under the Washington State Growth Management Act, RCW 36.70A, WAC 173-14 through 173-28. See **Section 550.04**.

Shorelines Permit Programs adopted under the Washington State Shorelines Management Act, RCW 90.58 and WAC 173-14 through 173-28. See **Section 550.02**.

Clearing and grading permits. See **Section 550.05**.

710.05 Non-Road Project Requirements

Environmental procedures for ferry-related maintenance activities are covered under the Implementing Agreement between Ecology and WSDOT regarding compliance with state surface water quality standards (February 13, 1998). See **Section 710.03** for a list of ferry maintenance activities covered under this agreement and **Section 540.08** and **Section 540.15** for a discussion of any General (programmatic) NPDES Permit and Hydraulic Project Approval requirements applicable to ferry maintenance activities.

710.06 Exhibits

None.

