

**Research Report**  
**HIGHWAY PROJECT DELIVERY REQUIREMENTS**

by

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## **DISCLAIMER**

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## LIST OF ACRONYMS

<b>BA</b>	Biological Assessment
<b>BO</b>	Biological Opinion
<b>CFR</b>	Code of Federal Regulations
<b>DEIS</b>	Draft Environmental Impact Statement
<b>EA</b>	Environmental Assessment
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environmental Protection Agency
<b>FEIS</b>	Final Environmental Impact Statement
<b>FONSI</b>	Finding of No Significant Impact
<b>MDL</b>	Master Deliverables List
<b>NEPA</b>	National Environmental Policy Act
<b>NOA</b>	Notice of Availability
<b>NOI</b>	Notice of Intent
<b>PDIS</b>	Project Delivery Information System
<b>PS&amp;E</b>	Plans, Specifications, and Estimates
<b>RCW</b>	Revised Code of Washington
<b>RFP</b>	Request For Proposals
<b>ROW</b>	Right of Way
<b>VE</b>	Value Engineering
<b>WAC</b>	Washington Administrative Code
<b>WIZARD</b>	Negotiated Timeframes Wizard
<b>WSDOT</b>	Washington State Department of Transportation

# TABLE OF CONTENTS

Introduction.....	1
Review of Previous Work.....	1
Research Approach.....	2
Findings/Discussion.....	4
Recommendations/ Application Implementation .....	5
Appendix A: Flowcharts.....	7
Appendix B: Matrices.....	32
Appendix C: List of Interviewees.....	82

## EXECUTIVE SUMMARY

The work of developing and delivering a highway project is governed by a wide array of state and Federal requirements. The Volpe National Transportation Systems Center (Volpe Center) worked with the Washington State Department of Transportation (WSDOT) to help make these requirements more transparent to the highway project team. The project included data gathering and documentation of WSDOT's project delivery stages, the Federal and state requirements relevant to each stage, and the roles and responsibilities of stakeholders throughout the delivery of WSDOT highway projects. The results were delivered as a series of web pages that illustrates the overall process and links to the Federal and state requirements of each stage.

The project methodology included the following:

- Conducted literature review;
- Created a spreadsheet matrix to collect and manage the requirements and related information;
- Created flowcharts to visually organize requirements;
- Validated and revised the requirements information through interviews with WSDOT staff;
- Posted the requirements information to a series of interconnected web pages

Project engineers can use the final project delivery requirements website to better understand the overall project delivery process, to facilitate their work with others, and to serve as a reference in a larger examination of WSDOT current practice. The team anticipates that the website, which consolidates wide-ranging requirements in one place, will be especially useful as a reference tool for project engineers when working with the various specialty groups. It may also be used as a reference tool in a larger business process improvement program.

The website is designed to be incorporated into the project management area of WSDOT's website, but could easily be relocated. Future improvements to the flowcharts could include links to citations directly, contact information for relevant WSDOT staff, and the integration of WSDOT policies and recommended practices.

## INTRODUCTION

Delivery of a highway project is a complex process and is dependent upon numerous entities for cooperation, coordination, review, and approval. In particular, a myriad of Federal, state, and local laws and regulations govern all aspects of project delivery – the planning process, environmental review, design, utility relocation, right-of-way acquisition, contracting, construction, maintenance, and operations. The complexity of these various regulations, and the uncertainty surrounding actual legal requirements are frequently cited as causes for delays in project delivery.

The Volpe National Transportation Systems Center (Volpe Center) worked with the Washington State Department of Transportation (WSDOT) to help make the Federal and Washington State requirements more transparent. The project included data gathering and documentation of WSDOT’s project delivery stages, the Federal and state requirements relevant to each stage, and the roles and responsibilities of stakeholders throughout the delivery of WSDOT highway projects. The results were delivered as a series of interconnected web pages that illustrates the overall process and provides links to the Federal and state requirements in each stage.

The final product, which can serve as a guide in improving the effectiveness and efficiency of highway project delivery, is a resource to help project development engineers and teams better understand the legal context in which they are working. The consolidation of these wide-ranging requirements in a single place could help WSDOT to understand how much of its current practice is required by law, is required by internal policy, and/or is simply “the way things are done.”

## REVIEW OF PREVIOUS WORK

Much of the previous work reviewed can be divided into two categories, environmental regulation and WSDOT internal business process improvement. Notable projects are listed below.

*The Negotiated Timeframes Wizard (Federal Highway Administration)*

<http://environment.fhwa.dot.gov/strmlng/es4vitalfew.htm#wizard>

The Negotiated Timeframes Wizard (Wizard) is software designed to help State Departments of Transportation and resource agencies negotiate timeframes for completing environmental reviews of proposed transportation projects. The Wizard also allows agencies to set project-specific timeframes for completing requirements, track the progress of meeting timeframes, and maintain a history of events.

*Environmental Flowchart and Reference Program (Federal Highway Administration New York Division)*

This Microsoft Excel set of spreadsheets includes flowcharts and references for a number of environmental processes and regulations.

*Master Deliverables List (WSDOT)*

<http://www.wsdot.wa.gov/Projects/ProjectMgmt/MasterDeliverables.htm>

The Master Deliverables List (MDL) is an internal WSDOT list of common highway design and construction project elements and one component of WSDOT's Project Delivery Information System (PDIS).

## **RESEARCH APPROACH**

The goal of this project was to create a framework of the Federal and state legal requirements for a highway delivery project, from the start of the environmental review process through the advertisement of the plans, specifications, and estimates (PS&E) package. Best practices, existing processes, internal and external policies were not captured in this project – nor were Federal regulations that are not strictly required, such as those invoked only on performance of an option by a State Department of Transportation.

The final product is a series of interconnected web pages that graphically link project delivery process flowcharts to tables with information on the regulations that govern the respective processes.

## **PROJECT METHODOLOGY**

- Conducted literature review;
- Created a spreadsheet matrix to collect and manage the requirements and related information;
- Created flowcharts to visually organize requirements;
- Validated and revised the requirements information through interviews with WSDOT staff;
- Posted the requirements information to a series of interconnected web pages

## **LITERATURE REVIEW**

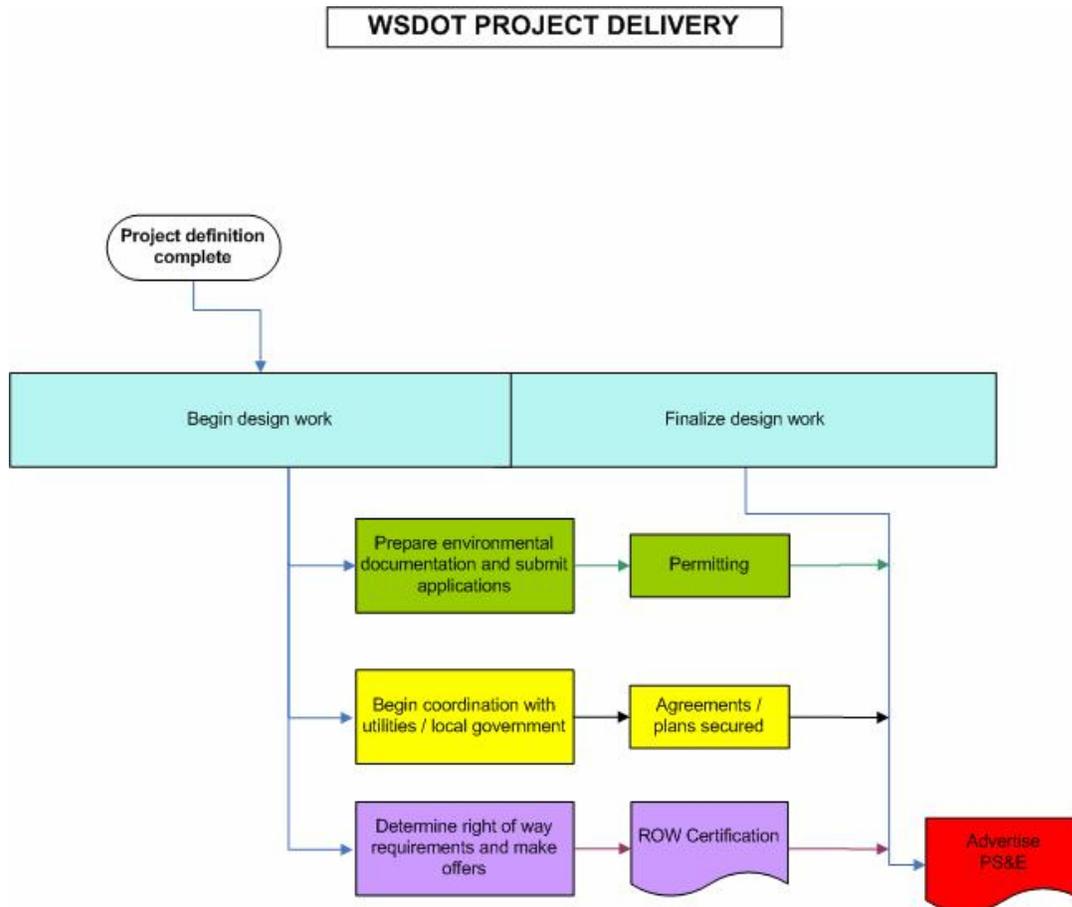
In order to create a comprehensive list of the relevant requirements, the Volpe Center conducted a literature review of Federal and state regulations and WSDOT manuals. Primary sources included the Code of Federal Regulations (CFR), the Revised Code of Washington (RCW), and the Washington Administrative Code (WAC). In addition, the team also reviewed similar projects, such as the Federal Highway Administration's Wizard.

## **IDENTIFYING THE REQUIREMENTS**

After review of the literature review by the project sponsor for completeness, the researchers identified individual requirements and their place within WSDOT's highway project delivery process. Several matrices were created in Microsoft Excel to capture the requirement; any sequencing or timing implications; citation information; and any

relevant additional information. Using Microsoft Visio, the research team then created flowcharts to visually depict the sequencing of Federal and state requirements.

The requirements were broken out into six project phases: design, environmental compliance, environmental permitting, utilities, right-of-way, and contracting; see Figure I. These phases were used to organize the flowcharts and the matrices.



**Figure I: Project Delivery Flowchart.** The WSDOT Project Delivery flowchart was used as an organizational framework for the project stages and their related requirements.

## INTERVIEW METHODOLOGY

In order to verify the accuracy of the draft flowcharts, several phone interviews were held with WSDOT subject area experts. Rick Smith, project sponsor, provided the Volpe Center a list of interviewees (Appendix C) for the different stages of project development covered here.

After allowing Mr. Smith to provide the interviewees with background on the project, the Volpe Center arranged interview times with the identified individuals. Interviews lasted

between 15 minutes and 1 hour. In all cases, the interviewees' areas of expertise aligned with the categories of information sought; no referrals were made.

Prior to conducting the interviews, the Volpe Center asked that interviewees review the detailed descriptions of project delivery requirements contained in the spreadsheet matrices, as well as each matrix's corresponding flowchart. Rather than using scripted questions, interviewees and the Volpe Center used the flowchart to walk through the outlined requirements. Moving "block-by-block" through the draft flowcharts allowed the research team to correct erroneous information, identify gaps in the information provided, as well as instances of including too much information. The flowcharts, which in their draft form included legal citations for each block, were also used to identify where incorrect citations had been reported in the spreadsheet matrices.

Following the calls, the Volpe Center provided a summary of the call notes to each respective interviewee. After revising each of the flowcharts, they were sent directly to the interviewee whom had provided suggestions. With no additional comments, the flowcharts were considered final; see Appendix A for the final Flowcharts.

## **WEB DEVELOPMENT**

Programmers and developers at the Volpe Center worked with WSDOT IT staff to create a series of web pages on the requirements. The web pages can be found at <http://www.wsdot.wa.gov/biz/ipd/default.htm>. Clicking on each required step in the flowchart takes the user to a table detailing the requirements for that step. Users may also download all requirements as a Microsoft Excel file.

Links to the main pages for the CFR, RCW, and the WAC are provided to aid the user in obtaining additional information. While providing links to the specific regulation was believed to be infeasible at this time due to maintenance requirements, the group would like to see this added functionality at a later date, should it be possible. For similar reasons, it was decided not to provide specific contact information for WSDOT staff, as positions and contact information may change.

## **FINDINGS/DISCUSSION**

The goal of this project is the compilation of information, rather than the analysis of that information. The compiled information is best viewed in the web site at <http://www.wsdot.wa.gov/Projects/ProjectMgmt/Process.htm#PMOG> so that a user can more easily link the process step in the flow chart to the detailed regulatory information found in the matrices. However, the Flowcharts are provided in Appendix A and the Matrices are provided in Appendix B.

While there were few findings as such, there were several questions to be resolved during the course of the project. These included:

*What is the appropriate level of detail?*

During the information gathering portion of the project, the team asked itself, how much information should the flowchart contain; how much should be provided by reference; and how much is too much? Enough information must be provided for the user to

understand the requirement, but concise enough to be easily interpreted. Generally, more information was provided on concrete requirements that were likely to impact the user's project timeline, and much less was provided on those which were deemed "good to know, but not critical." This determination was necessarily subjective and revisions may be desired in the future. The validation process with WSDOT staff suggests that the present level of detail is acceptable. In all cases, the relevant regulation was cited to enable users to seek more detail if desired.

*Are the flowcharts process-oriented or requirement-oriented?*

While the intent of this project was to capture only required steps in the project delivery process, not all steps in project delivery are governed by Federal and state requirements. However, flowcharts not including these steps would have been more difficult for a user to follow. In the end, a compromise was reached. For clarity, the flowcharts contain some steps that are not strictly required. Law mandates relatively little sequencing and thus many choices about flow were governed by actual practice at WSDOT and common sense.

*What is the relationship of this tool to PDIS?*

WSDOT's PDIS is a software tool that supports project planning agency-wide. While the project sponsor initially proposed building the requirements into PDIS, discussions between PDIS staff and the Volpe Center, revealed that the PDIS will be undergoing revision and currently provides no likely connections with the requirements. The team resolved the issue by providing references to relevant MDL items for each requirement. This will enable future revisions of PDIS to incorporate the requirements, should that functionality be desired. It should be noted that there are many requirements not listed in the MDL and likewise, many MDL items not exactly matching the requirements.

*Is this the appropriate format for this information?*

While the user group commented positively on the ease of use of both the matrix and the flowcharts, they also raised questions about their intended use. Many project engineers are accustomed to getting this kind of information through their relationship with colleagues in the various specialty groups, and were uncertain how often they would need the specific regulatory information. The group agreed that new staff would benefit from consulting the website.

A more targeted use of the material will likely be in its use as a reference tool in a larger business process improvement program.

## **RECOMMENDATIONS/ APPLICATION IMPLEMENTATION**

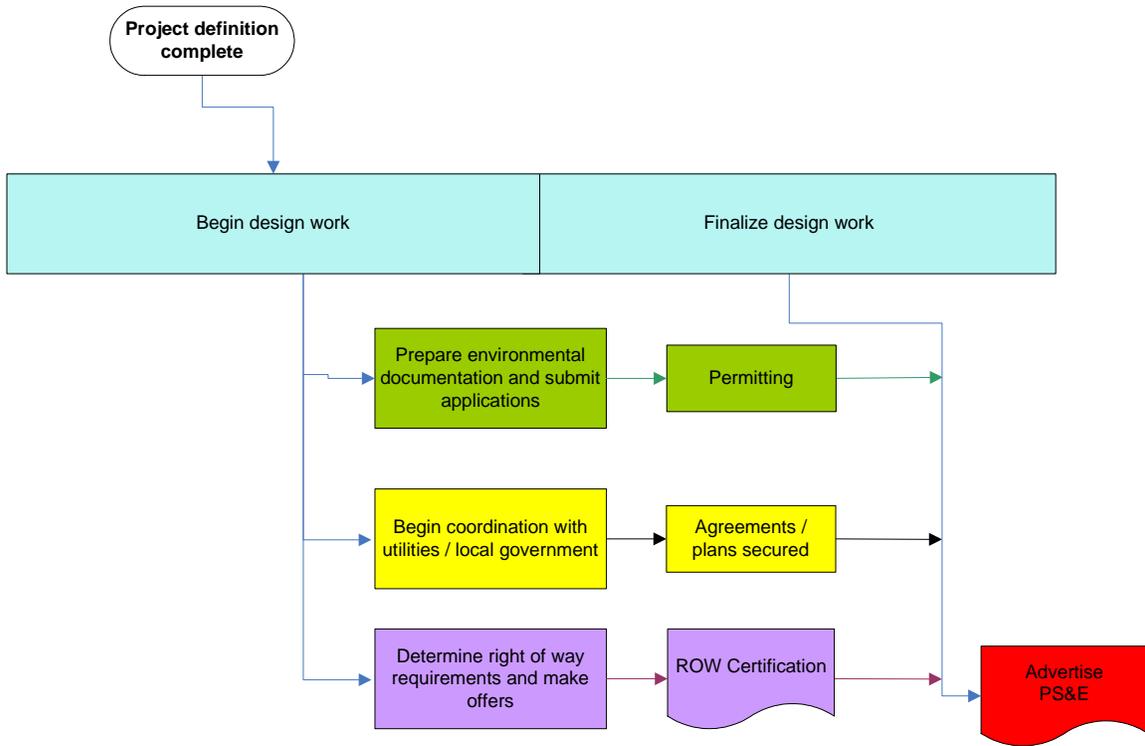
The product of this project was a web site containing information on federal and Washington state highway project delivery requirements. The web site contains flow charts of the regulatory requirements placed in order of common usage. In addition, dependencies between requirements (e.g., Decision A is needed before Decision B) and timing aspects (number of days allowed for a process) are included if stated in the regulation. The web site allows the user to gain an overall understanding of the process

steps and to obtain detailed information on each step by clicking on the specific regulation. Hotlinks are also provided to web sites where the actual statutes can be consulted.

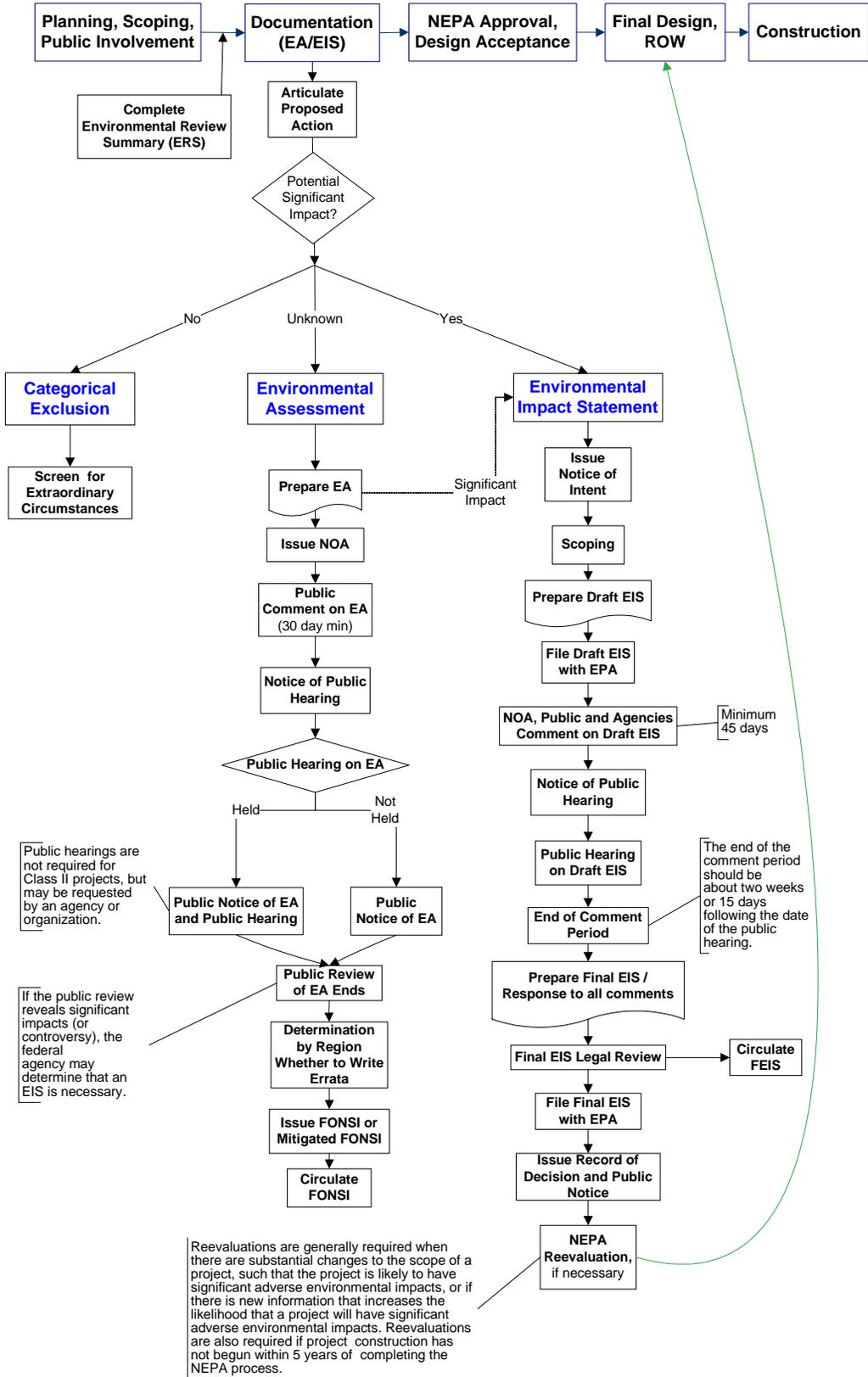
This information is immediately available to project engineers, specialty service providers (i.e., Real Estate Services, Environmental Services), and the public for use in understanding the overall process or as a reference tool for specific regulations. Future improvements could include links to citations directly, contact information for relevant WSDOT staff, and, the inclusion of WSDOT policies and recommended practices into the flowcharts. In addition, the information can be analyzed for potential efficiencies to be gained by how decisions are sequenced or resourced.

# APPENDIX A: FLOWCHARTS

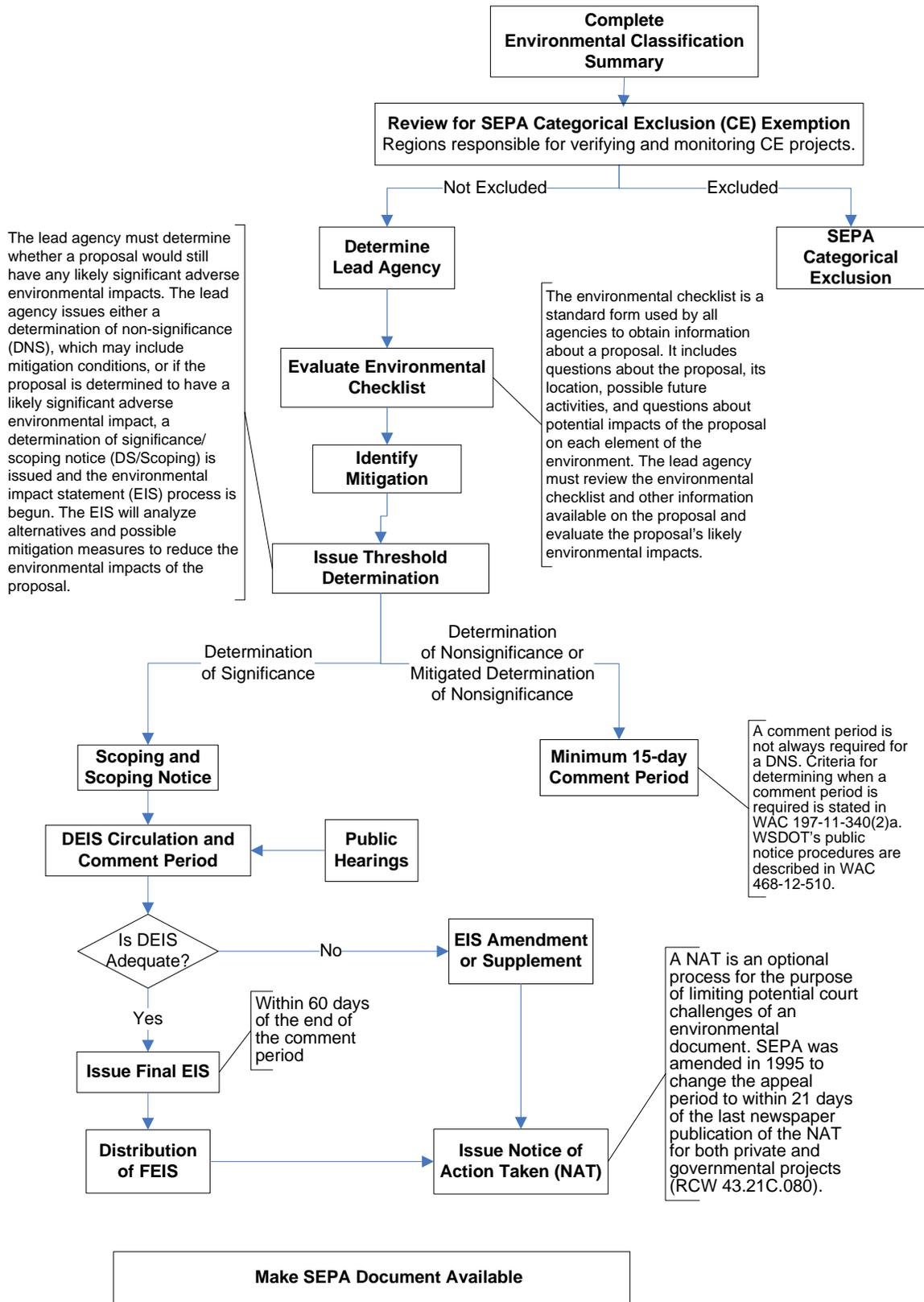
## WSDOT PROJECT DELIVERY

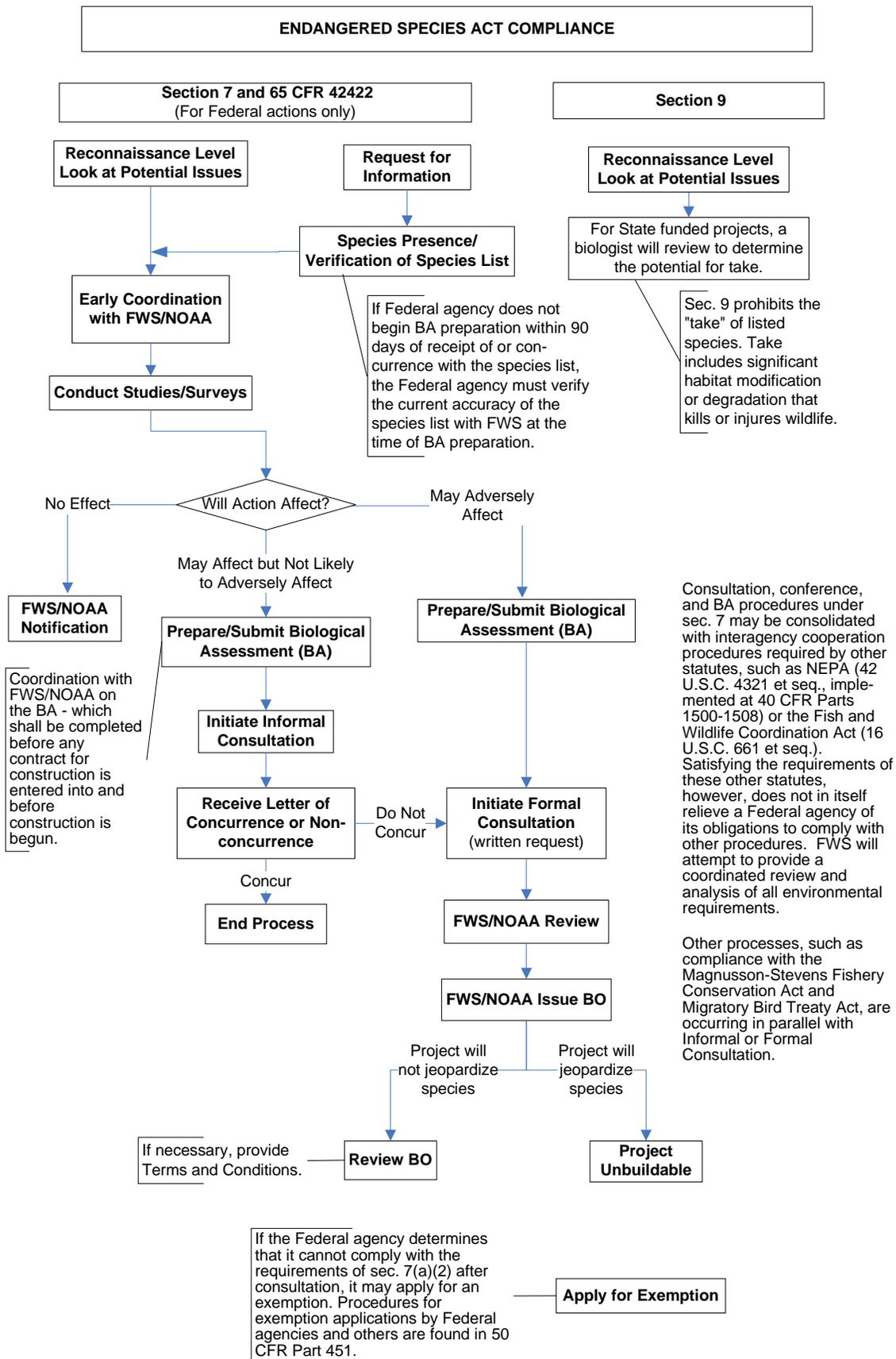


# NEPA COMPLIANCE

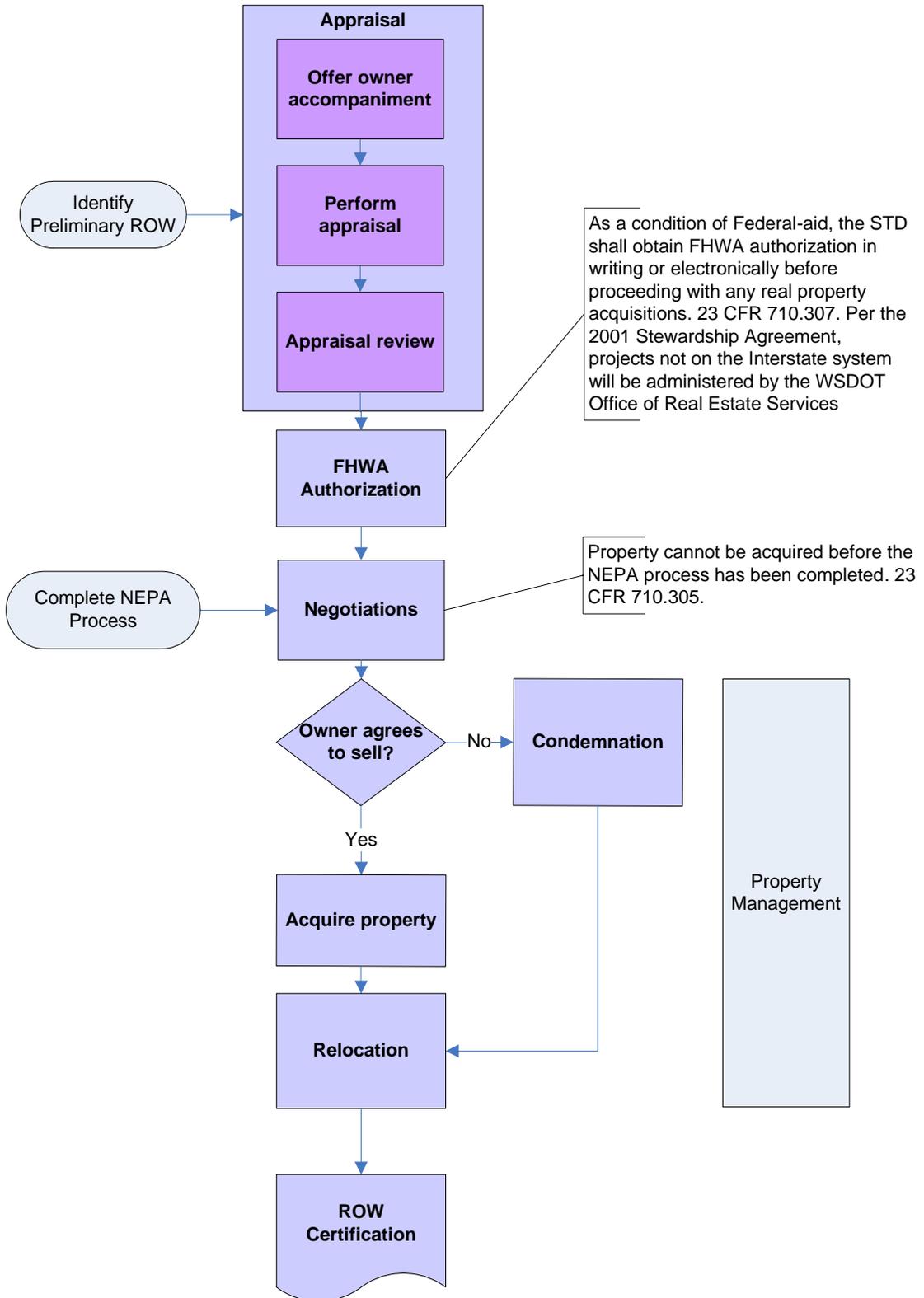


# SEPA COMPLIANCE

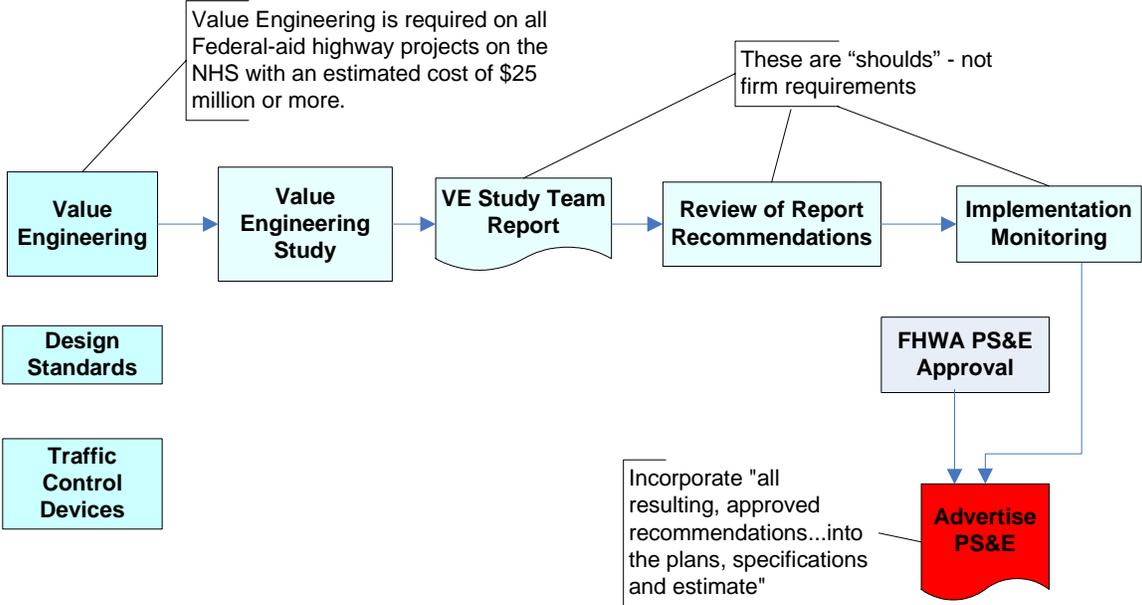


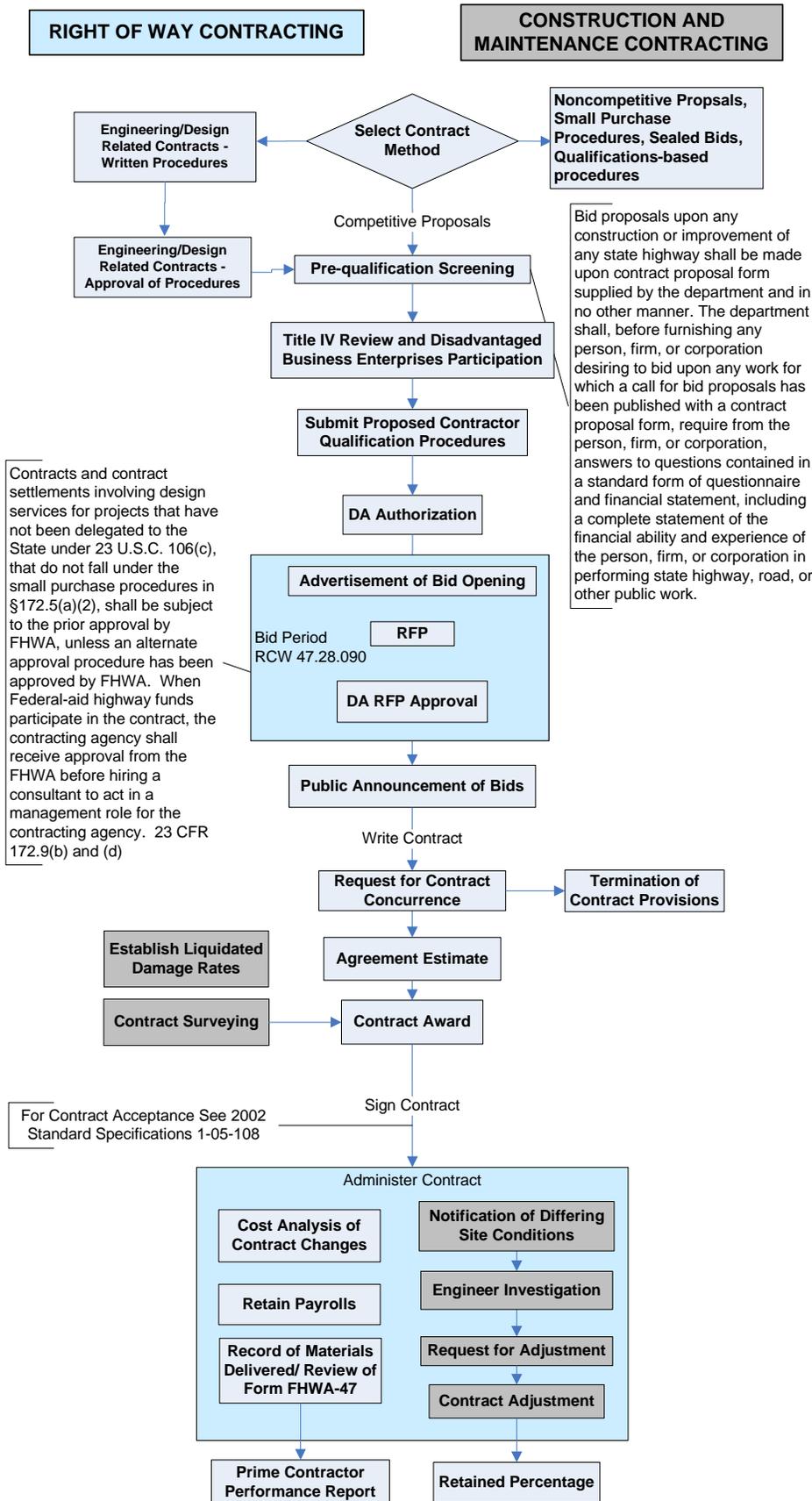


# RIGHT OF WAY REQUIREMENTS



# DESIGN REQUIREMENTS





**UTILITIES RELOCATION**

According to the 2001 Stewardship Agreement, WSDOT has been and may continue to operate under the alternate procedures, which allow WSDOT to conduct review and approvals necessary to authorize utilities to proceed with and complete the work

**Alternate Procedures**

**Authorization to proceed with physical relocation of a utility's facilities**

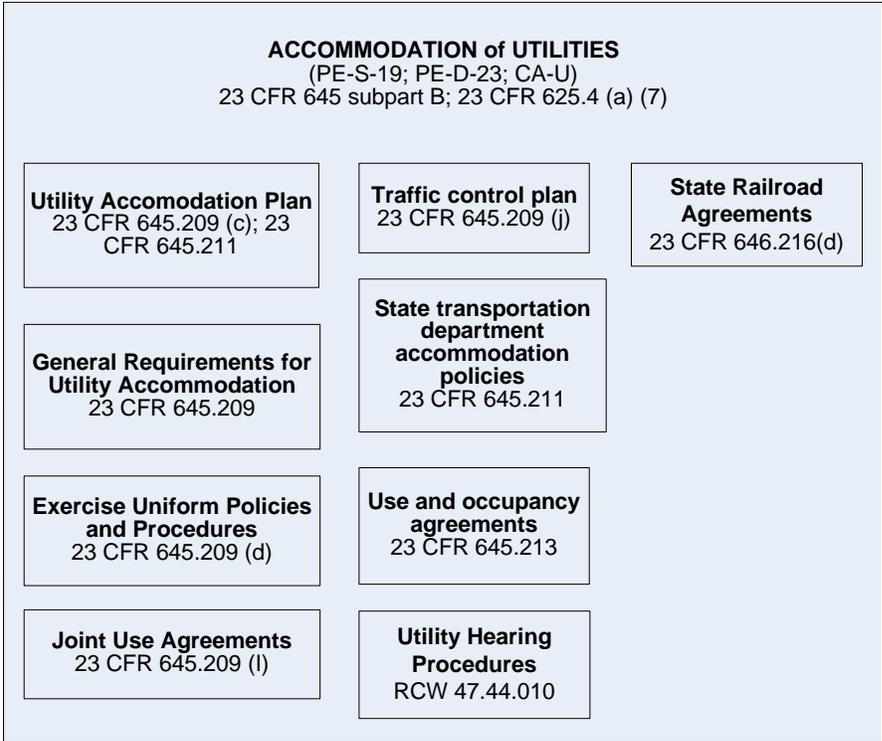
Authorization cannot be given to proceed until the project has been included in the STIP, the environmental process is complete, and plans, estimates, agreements, and schedule have been approved.

**Agreement between utility and State DOT**

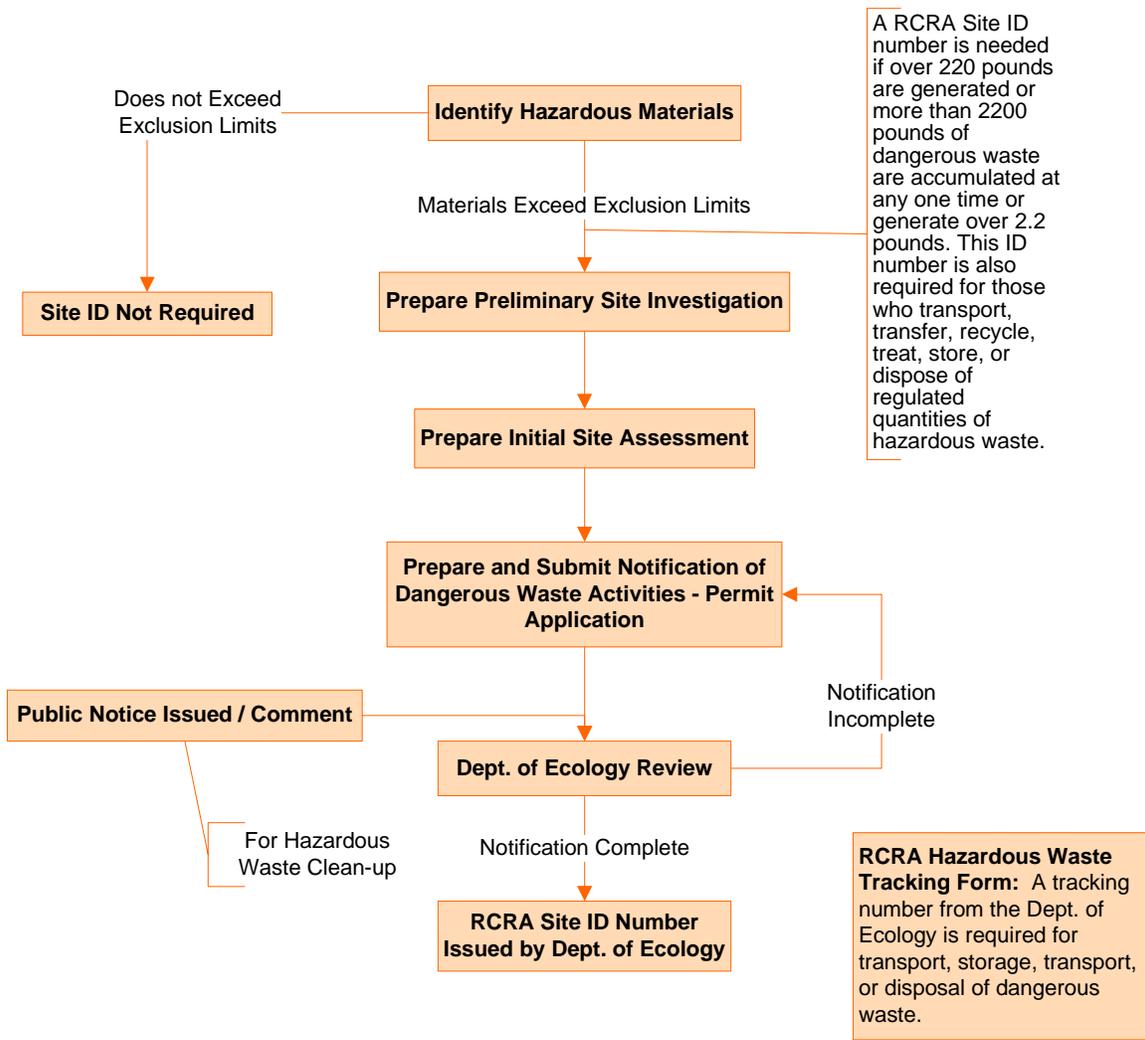
**Billing utility costs**

**Utility Relocation cost development and reimbursement**

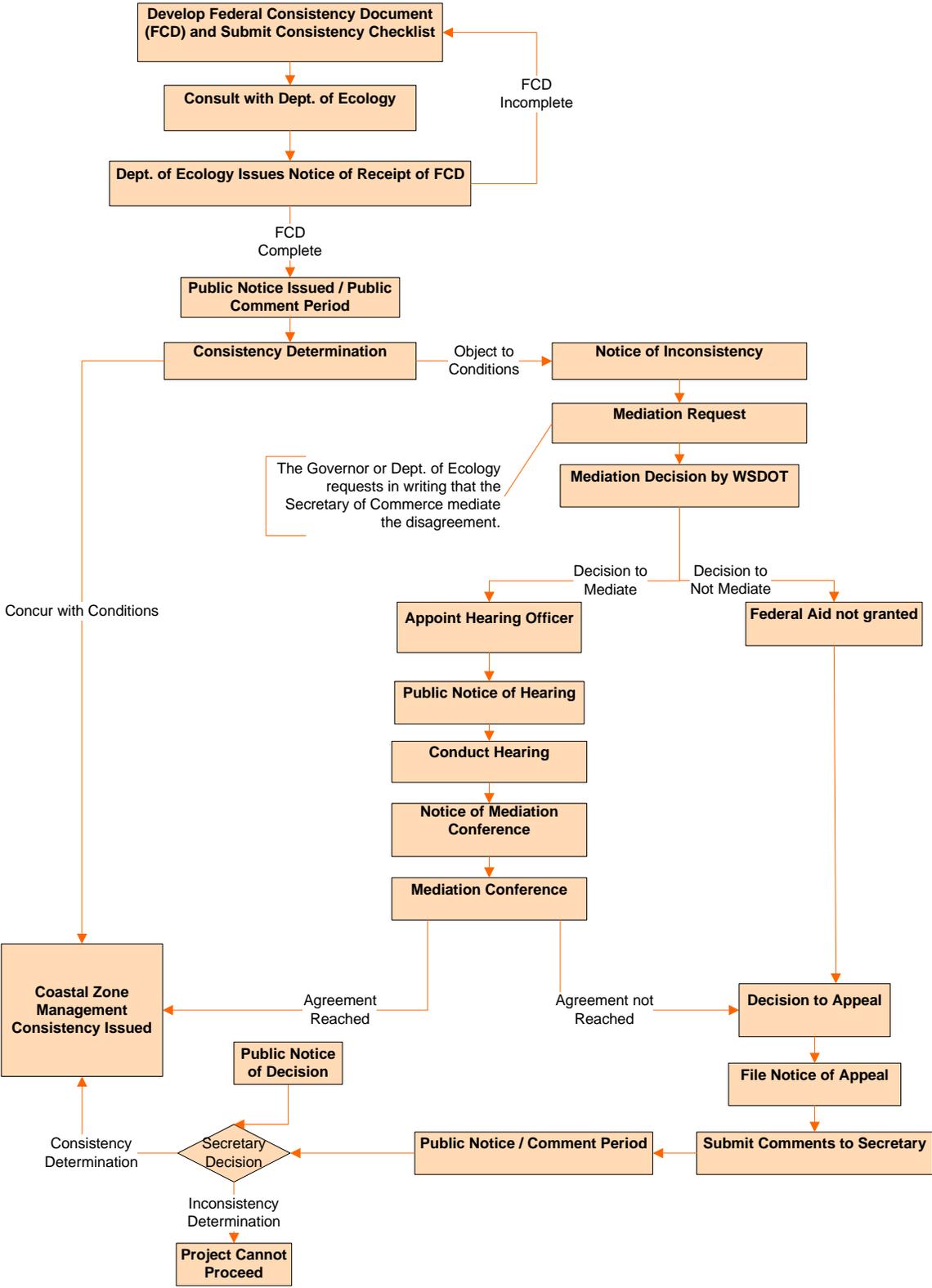
When proposed utility relocation and adjustment work on a project for a specific utility company can be clearly defined and the cost can be accurately estimated, the FHWA may approve an agreement between the TD and the utility company for a lump-sum payment without later confirmation by audit of actual costs. Agreement must be in place before PS & E.



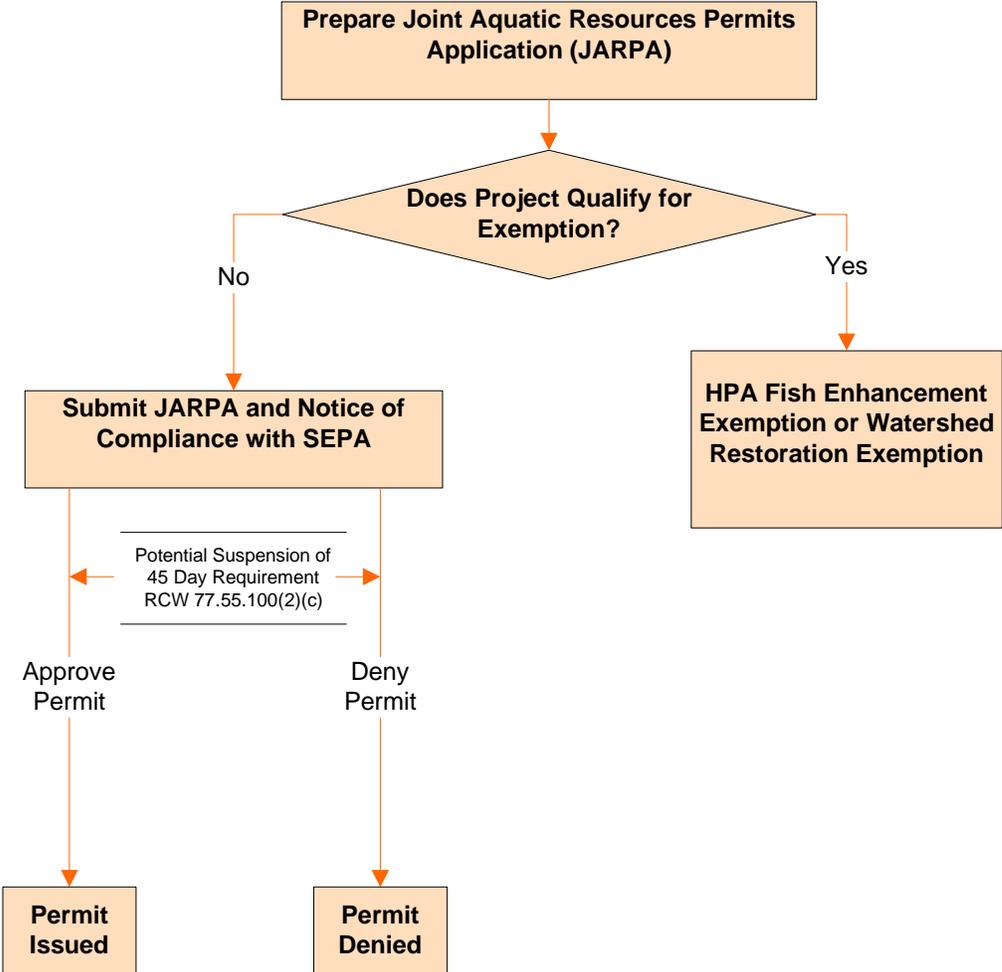
**RESOURCE CONSERVATION AND RECOVERY  
ACT (RCRA) DANGEROUS WASTE PERMIT AND  
SITE ID NUMBER**



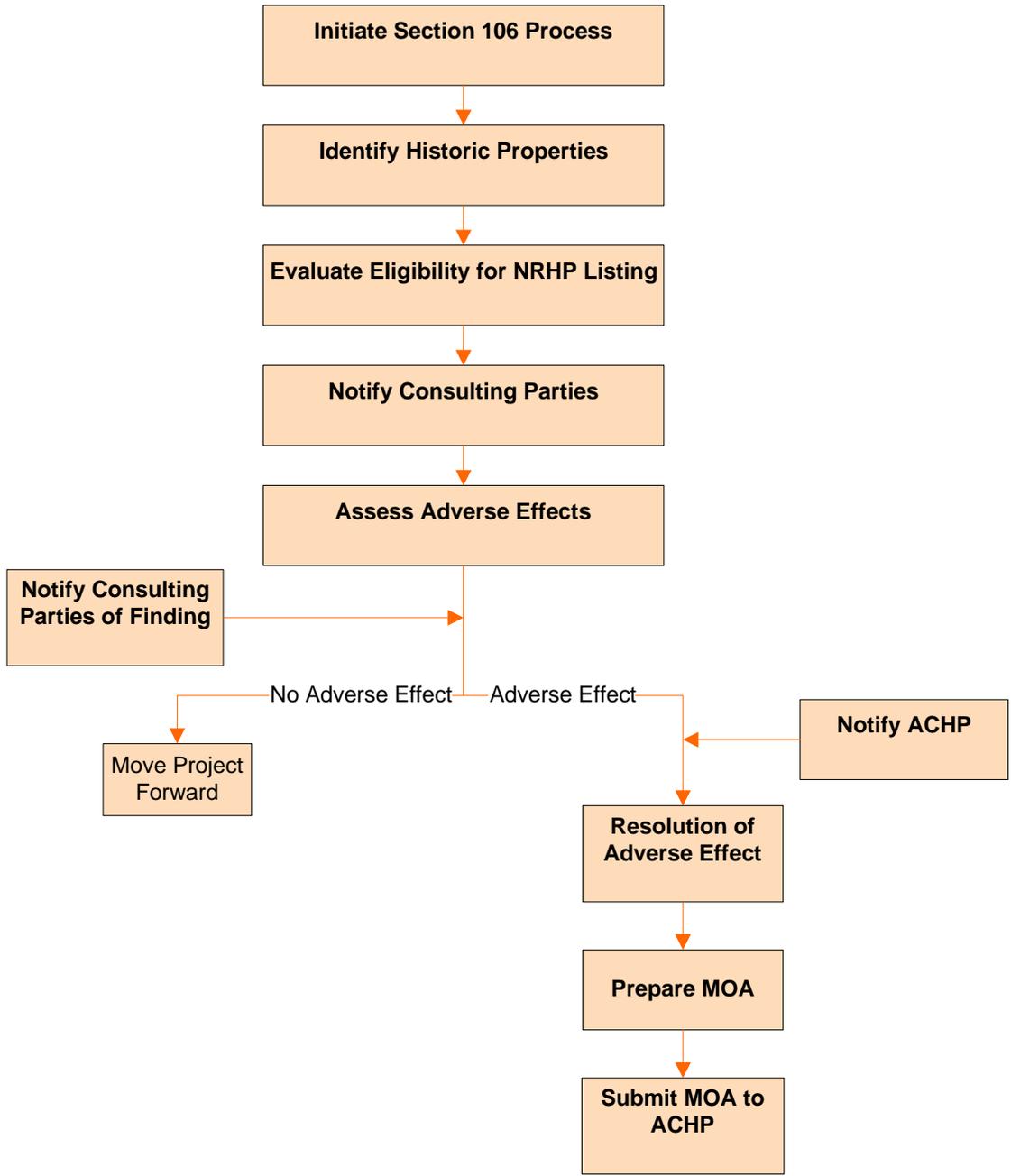
# COASTAL ZONE CONSISTENCY DETERMINATION

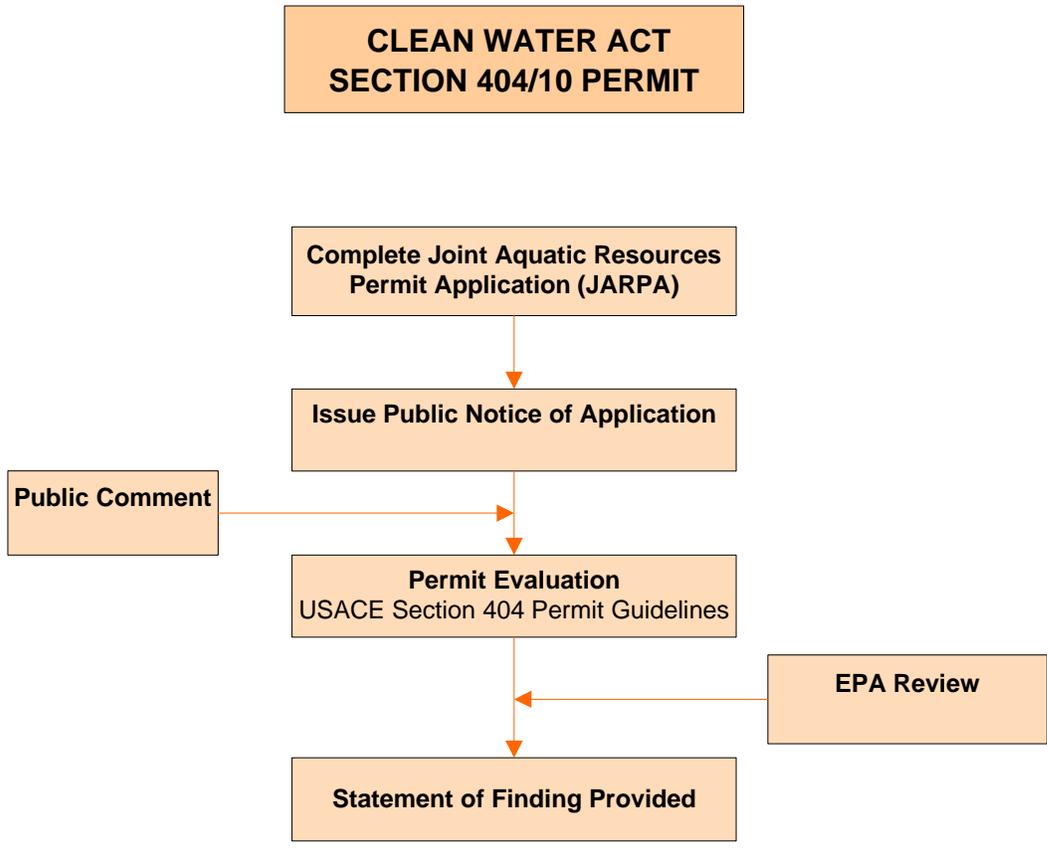


# HYDRAULIC PROJECT APPROVAL

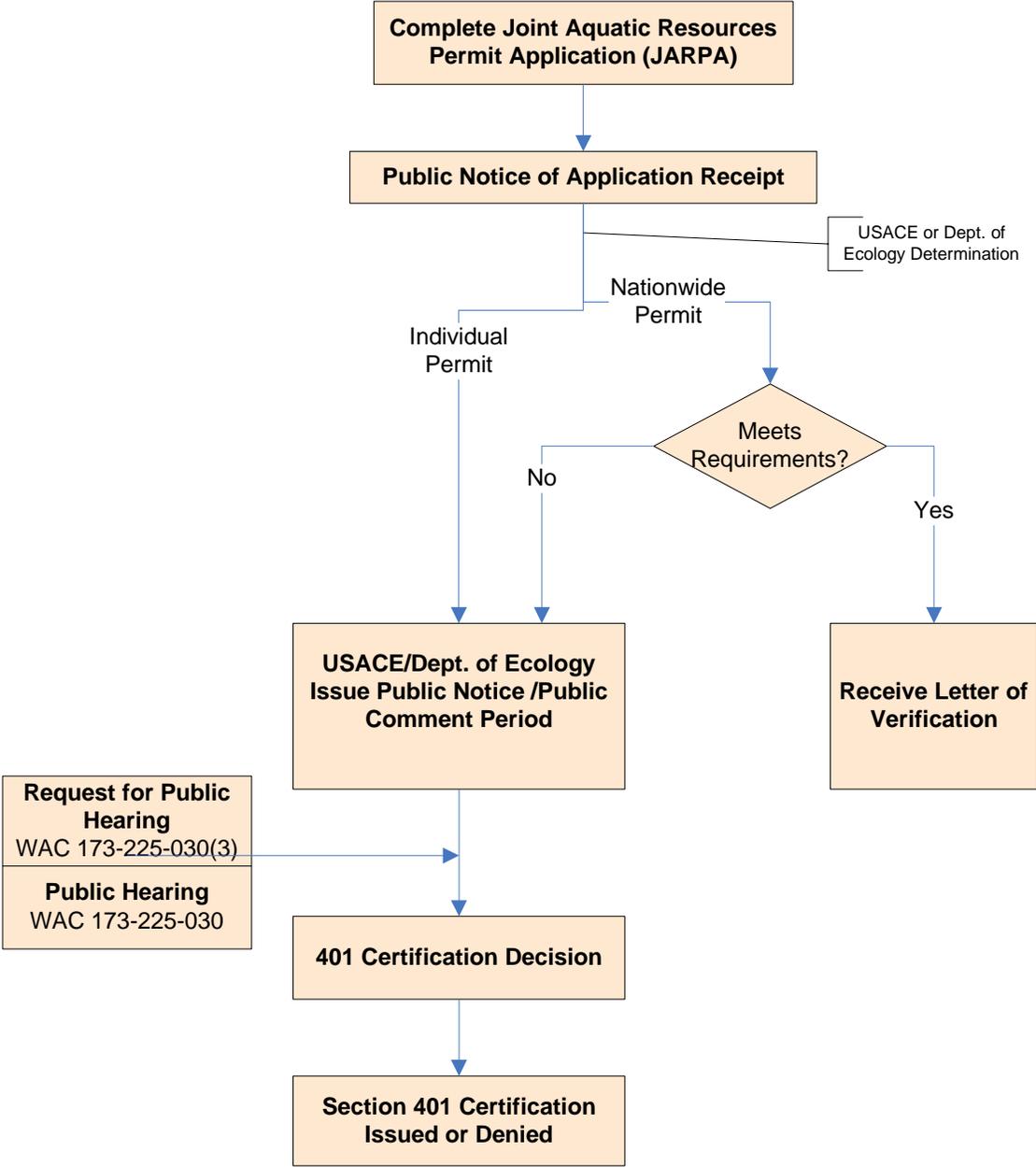


**SECTION 106 of the National Historic Preservation Act of 1966 (NHPA) COMPLIANCE**

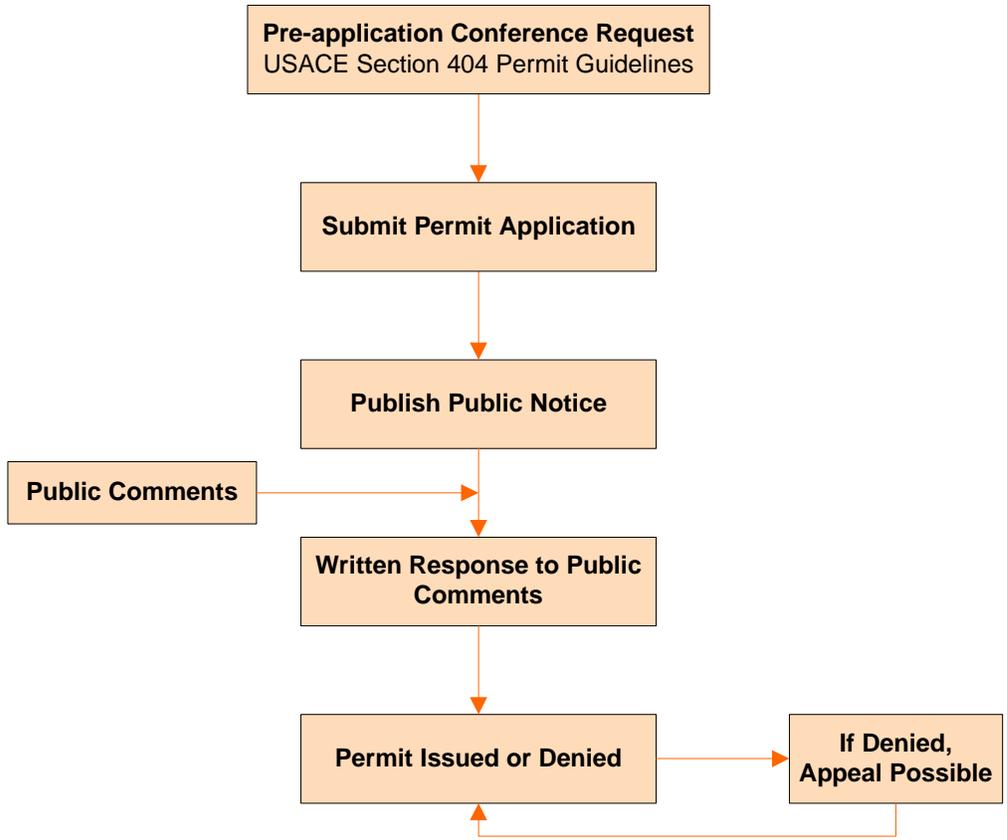




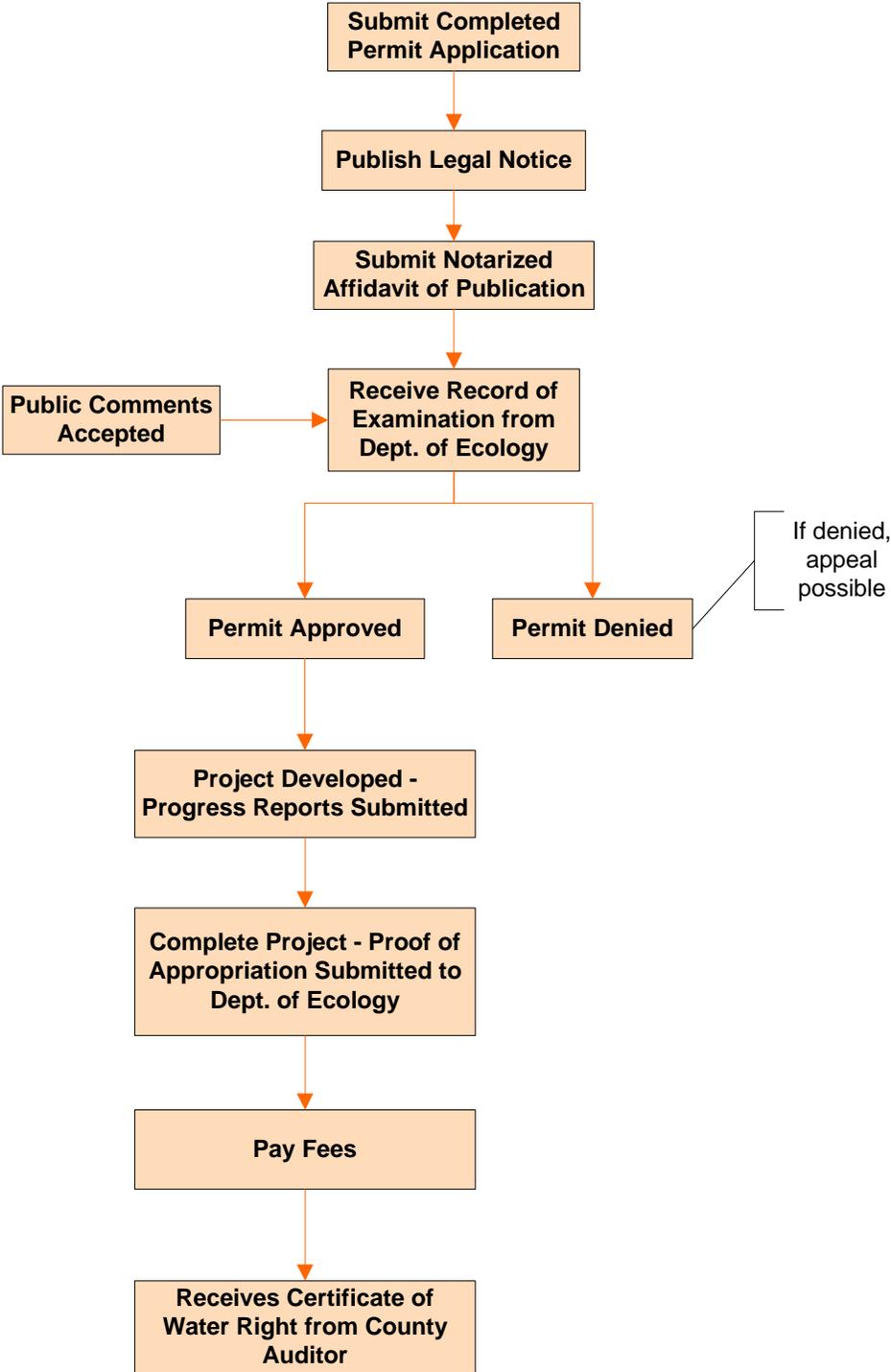
# WATER QUALITY CERTIFICATION



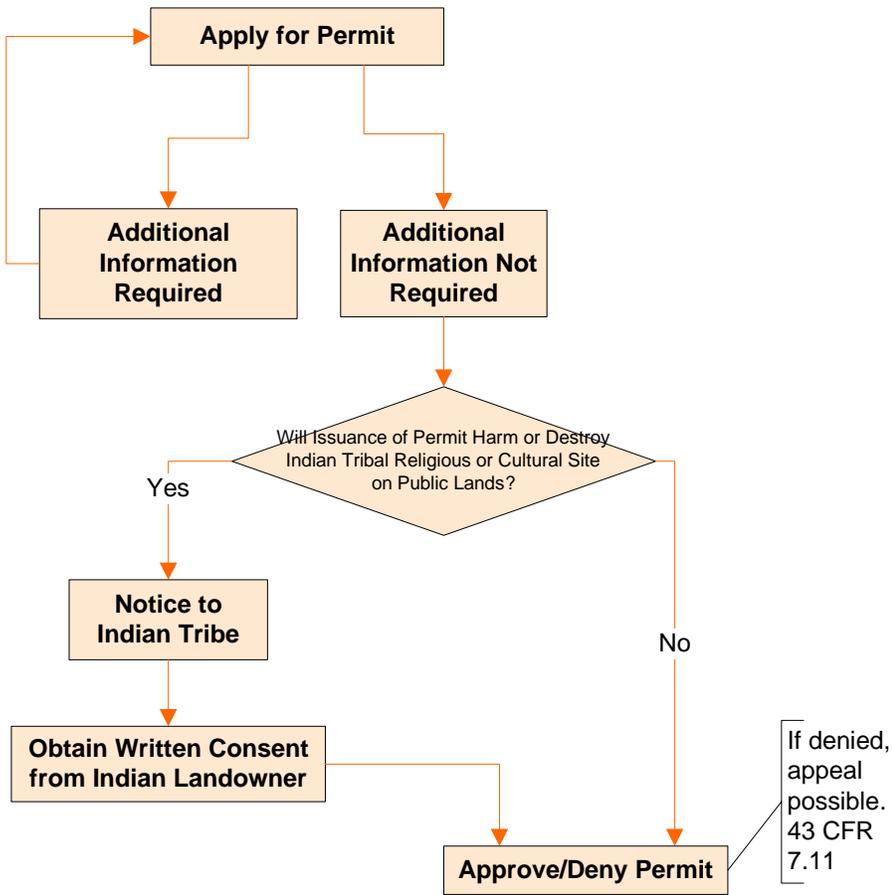
**SHORELINE SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE PERMITS**



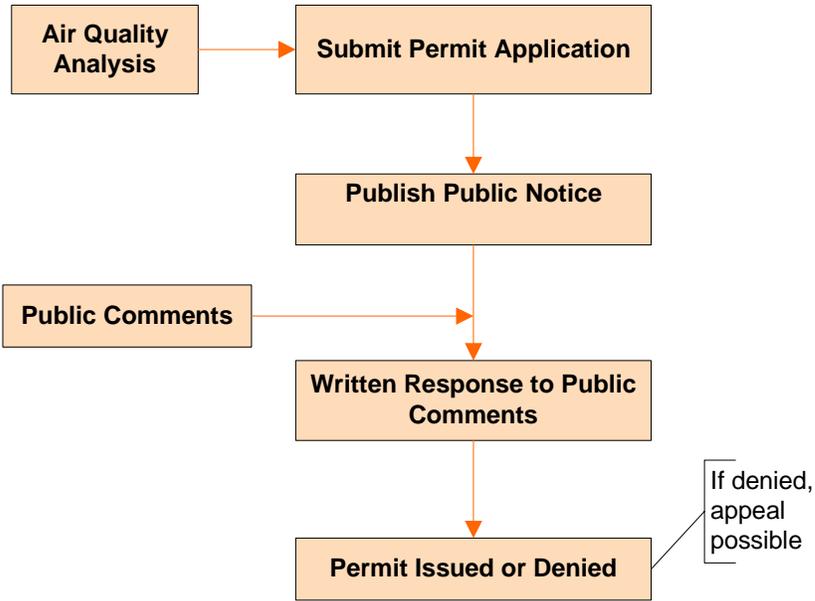
**WATER RIGHT PERMIT**



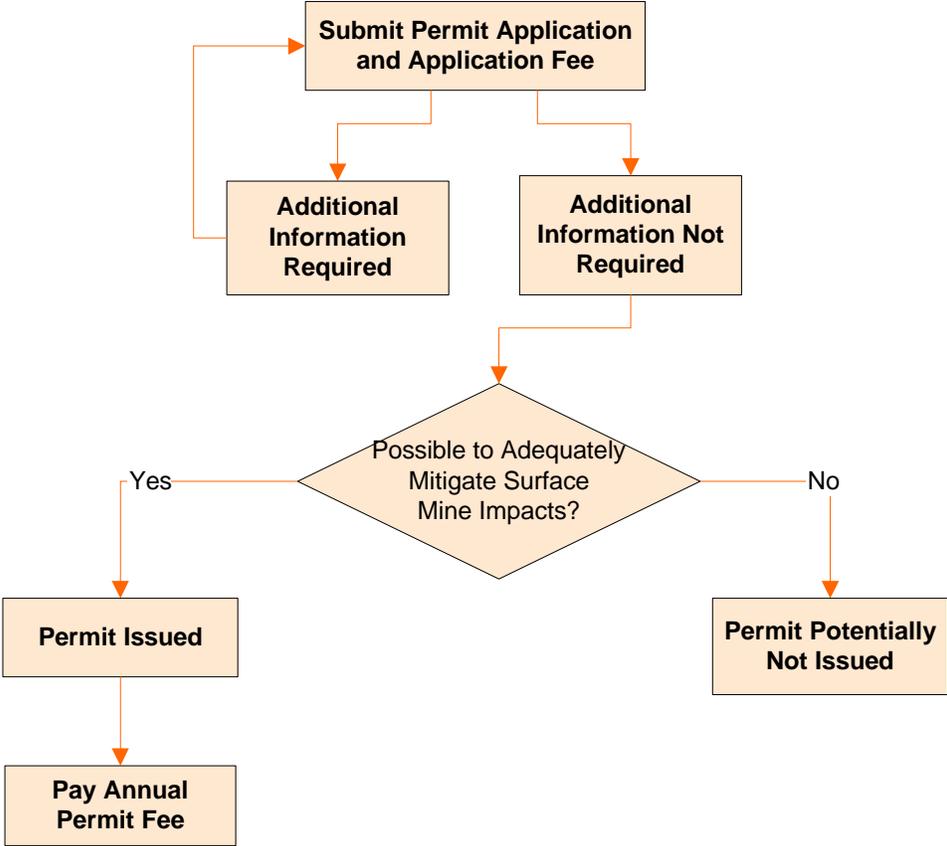
**ARCHAEOLOGICAL RESOURCES PROTECTION PERMIT**

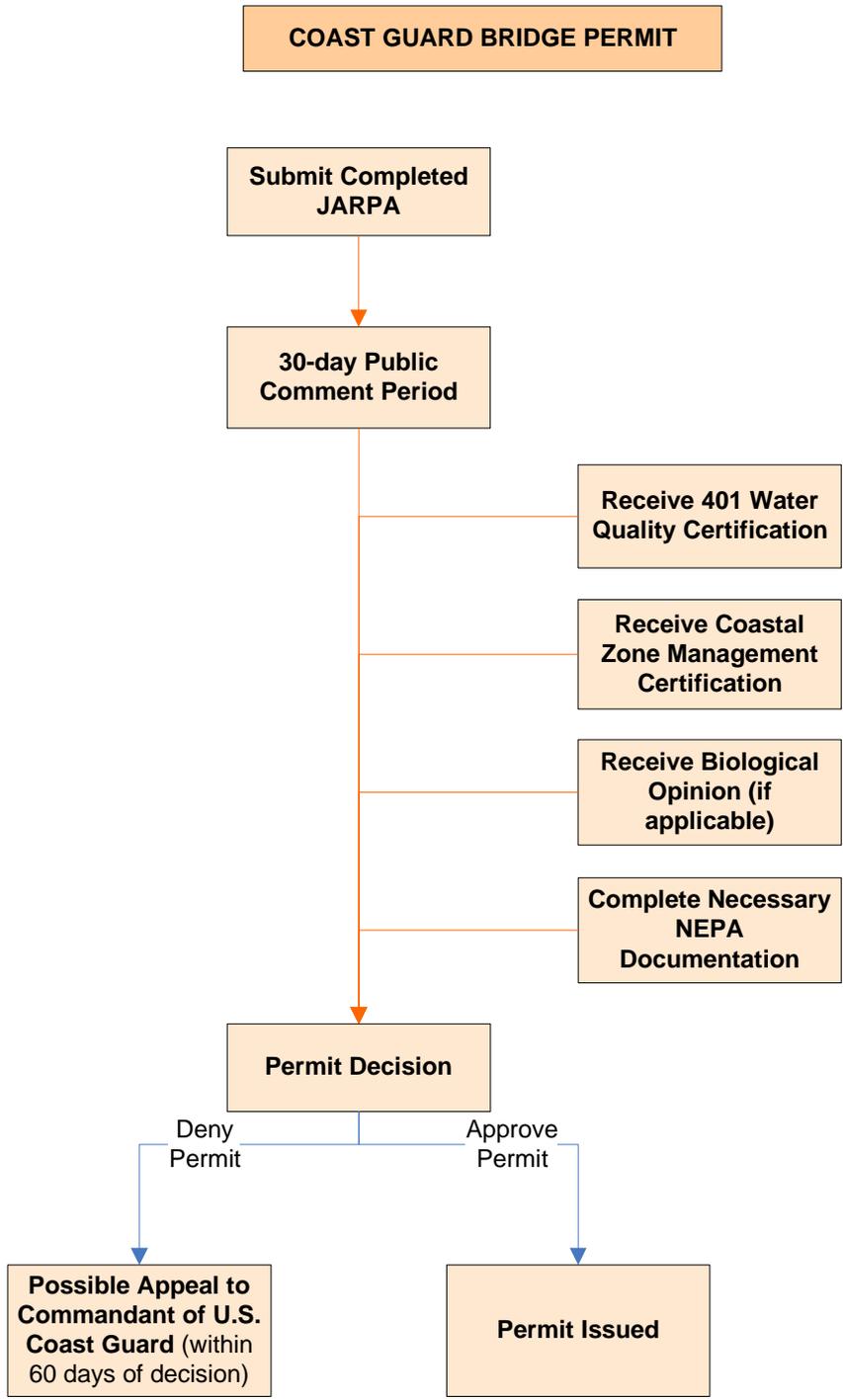


# AIR QUALITY PERMIT

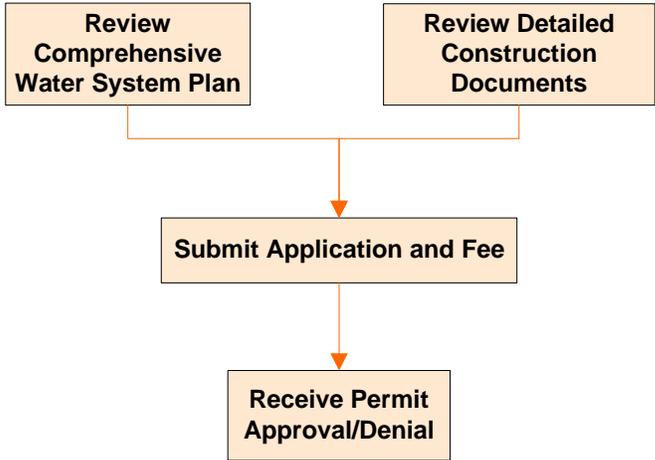


**SURFACE MINING RECLAMATION PERMIT**

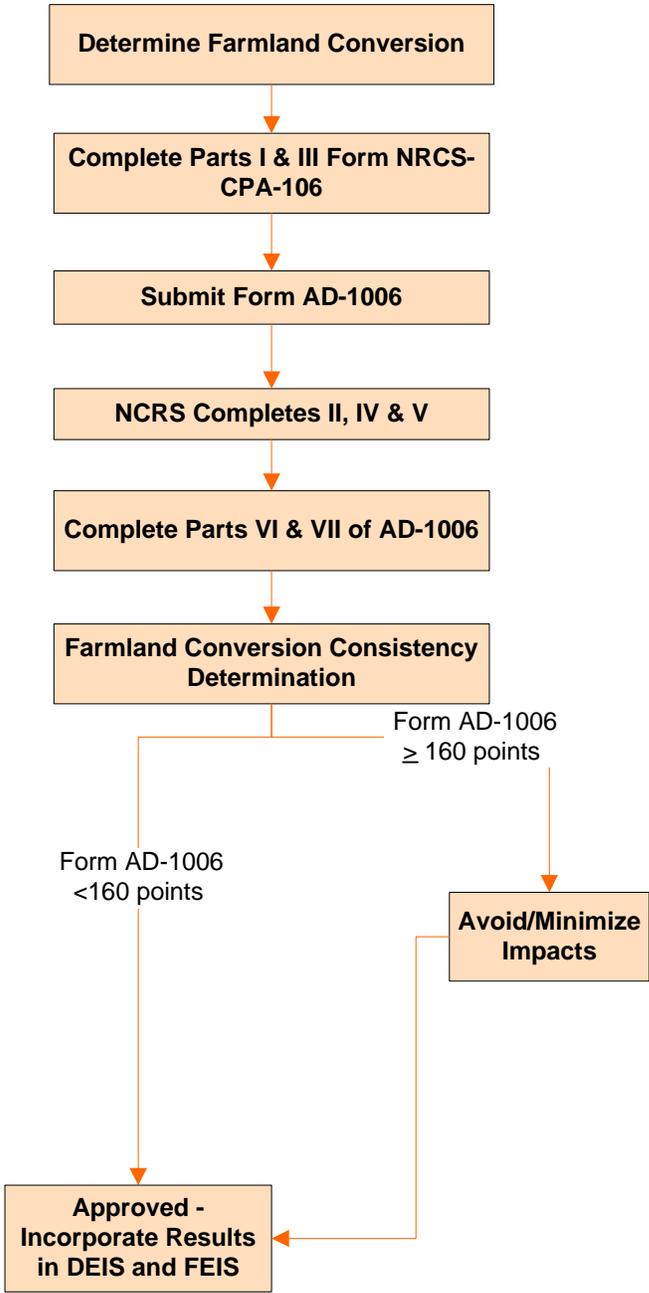




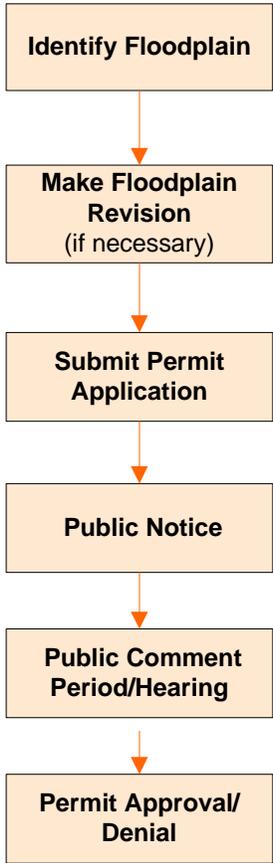
**PUBLIC WATER SYSTEM APPROVAL**



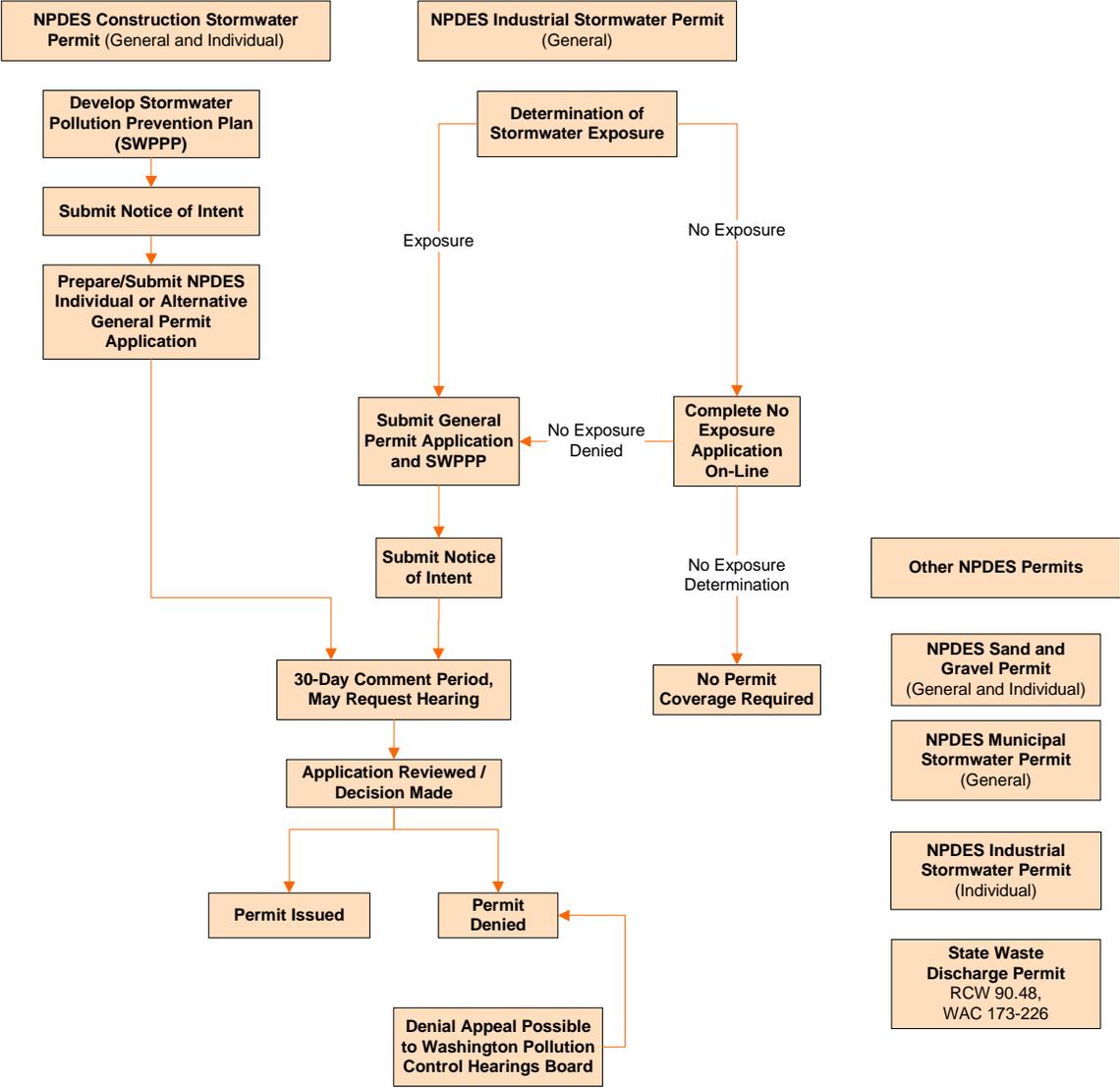
**FARMLAND CONVERSION**



**FLOODPLAIN DEVELOPMENT PERMIT**



**National Pollution Discharge Elimination System (NPDES) and State Waste Discharge**



**Other Environmental Permits**

**Clearing, Grading  
and Building Permit**

**Reservoir Permit**

**Land Use Permit**

**Critical Area  
Ordinance Permit**

**Forest Practices  
Permit**

**Aquatic Lands Use  
Authorization**

**Dam Construction  
Permit**

**Noise Variance**

## APPENDIX B: MATRICES

<b>NEPA COMPLIANCE</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>NEPA Compliance</b>	NEPA requires Federal agencies to prepare an environmental impact statement (EIS) for major Federal actions that significantly affect the quality of the human environment.	The National Environmental Policy Act (NEPA) of 1969; 40 CFR Parts 1500-1508; 23 CFR 771.105 and 109		PE-D-06.19
Planning, Scoping, Public Involvement	There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. Agencies shall provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents. In all cases, the agency shall mail notice to those who have requested it on an individual action. In an action of national concern: notice shall include publication in the Federal Register and by mail to national organizations reasonably expected to be interested in the matter. Agencies shall hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Agencies shall solicit appropriate information from the public, explain in its procedures where interested persons can get information or status reports on EIS or other NEPA elements, and make EISs, comments received, and any underlying documents available to the public.	40 CFR 1501.7 Scope defined in 40 CFR 1508.25, CEQ Requirements 40 CFR 1506.6, Freedom of Information Act, 23 CFR 771.111	Public involvement occurs in Scoping, review and comment on draft EIS, draft EIS public meeting, review and comment on the final EIS or EA, and review and comment on the ROD or FONSI.	
Documentation (EA/EIS) including Purpose and Need	Classes of Action: <u>Categorical Exclusion</u> , <u>Environmental Assessment</u> , <u>Environmental Impact Statement</u>	40 CFR 1502.13		
NEPA Approval, Design Acceptance	"Include in every recommendation or report...a detailed statement by the responsible official on (iii) alternatives to the proposed action."	NEPA 102(2)(C) and (E); 40 CFR 1502.14		
Final Design, Right of Way, and Construction				
Re-evaluation of NEPA	Re-evaluation of Environmental Assessments and Environmental Impact Statements if no action is taken on the project for 3 years or substantial change to the scope results in a loss of validity of determinations.	23 CFR 771.129		

<b>SEPA COMPLIANCE</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>SEPA Compliance</b>	Determine whether environmental review is required for the proposal. Must occur concurrently with and as an integral part of the planning and decision making under the Growth Management Act (GMA). SEPA documents shall be prepared and issued no later than the time that a proposed GMA action is issued for public and interagency review. For comprehensive plans and development regulations, the date of issue shall be at least 60 days prior to final adoption under RCW 36.70A.106.	RCW 43.21C.110 and WAC 197-11-210 through 235		PE-D-06.19
Complete Environmental Classification Summary			Regional Manager concurs by signing Summary. Regional Manager concurs by signing Summary.	
Review for SEPA Categorical Exclusion Exemption	Review for exemption. Region responsible for verifying and monitoring CE projects.	WAC 197-11-305 and 800 through 880; RCW 43.21C	If exempt, no documentation required.	
Determine Lead Agency		WAC 197-11-922 through 944		
Evaluate Environmental Checklist	The environmental checklist is a standard form used by all agencies to obtain information about a proposal. It includes questions about the proposal, its location, possible future activities, and questions about potential impacts of the proposal on each element of the environment. The lead agency must review the environmental checklist and other information available on the proposal and evaluate the proposal's likely environmental impacts.	WAC 197-11-330 and 960		
Identify Mitigation		WAC 197-11-158 and 330(1)(c )		
Issue Threshold Determination	The lead agency must determine whether a proposal would still have any likely significant adverse environmental impacts. The lead agency issues either a determination of non-significance (DNS), which may include mitigation conditions, or if the proposal is determined to have a likely significant adverse environmental impact, a determination of significance/scoping notice (DS/Scoping) is issued and the environmental impact statement (EIS) process is begun. The EIS will analyze alternatives and possible mitigation measures to reduce the environmental impacts of the proposal.	WAC 197-11-310, 340, 350, 355, 360, and Part Four	After evaluation of the proposal and identification of mitigation measures. The responsible official shall make a threshold determination no later than 90 days after the application and supporting documentation are determined to be complete. If an open record predecision is required, the determination shall be issued at least 15 days before the hearing.	

<b>SEPA COMPLIANCE (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
If DNS determined	Determination of Significance - If interim actions will not have a probable significant adverse environmental impact, the lead agency shall issue a DNS and provide a comment period that is no less than 15 days prior to the MTCA document's effective date.	WAC 197-11-340(2); WAC 197-11-230(1) and (4); WAC 197-11-360(4)	At least a 14 day comment period may be required. DNSs requiring 14-30 day comment period include: Mitigated DNSs, DNSs issued with a Notice of Application, and DNSs after withdrawal of DS. DNSs integrated with GMA planning documents require 14-60 day comment period.	
If DS determined	Public notice will be given if a comment period is required. In extended scoping, an applicant may request a date by which the lead agency determine the EIS scope. The date shall occur 30 days or less after DS issued.	WAC 197-11-408 and 410	Comment period of 21 days, up to 30 days for expanded scoping.	
DEIS	Required when actions are likely to have significant impact on the environment by altering land use, planned growth development patterns, traffic volumes, travel patterns, transportation services or natural resources, or by creating public controversy. Contact Region Environmental Manager.		If determination of significance, begin EIS process. Draft EIS.	
DEIS Comment Period	Draft EIS integrated with GMA planning documents require 30 to 60 day comment period.	WAC 197-11-455(6); WAC 197-11-230(1) and (4)	Any person or agency shall have 30 days from the date of issue in which to review and comment upon the DEIS. A lead agency may grant an extension of up to 15 days.	
SEPA EIS or Supplement		WAC 197-11-620(1)	30 Day comment period with possible 15-day extension.	
Public Hearings	Public hearings may be held. They should be open to discussion of all environmental documents and written comments that have been received by the lead agency prior to the hearing.	WAC 197-11-535	Notice of hearings shall be published no later than 10 days before the hearing. Hearings shall occur no earlier than 15 days from the date the DEIS issued.	

<b>SEPA COMPLIANCE (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Issue Final EIS		WAC 197-11-408(i) and 460(4)	FEIS issued within 60 days of the end of the comment period. An FEIS, if any, shall be issued at least 7 days before adoption of a final rule.	
USE SEPA in Decision-making	The agency decision-maker must consider the environmental information, along with technical and economic information, when deciding whether to approve a proposal. The lead agency shall narrow the scope of every EIS to the probable significant adverse impacts and reasonable alternatives, including mitigation measures.	RCW 43.21C.030(b); WAC 197-11-660	If WSDOT requires comments, agencies, affected tribes and the public shall be allowed 21 days from the date of issuance of the DS in which to comment.	
Issue Notice of Action Taken	NEPA document adopted to meet the requirements of SEPA.			
Make SEPA document available		RCW 42.17; RCW 43.21C.80		

<b>ENVIRONMENTAL DOCUMENTATION</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Categorical Exclusion</b>	A category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by the Federal agency in implementation of CEQ regulations and for which, therefore, neither an EA nor an EIS is required.	40 CFR 1508.4; 23 CFR 771.117; May 24, 1999 MOU between WSDOT and FHWA		PE-D-06
<b>Environmental Assessment</b>	An EA is a public document that provides agencies with sufficient evidence and analysis to determine whether to prepare an EIS or a finding of no significant impact (FONSI). The EA helps agencies to comply with NEPA and it facilitates the preparation of an EIS when one is necessary. Included in the EA are brief discussions of the need for the proposal, alternatives to the proposal, environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.	Implied in law (NEPA), established in 40 CFR 1508.9	If it is found that significant impacts will result from the action, EIS preparation should commence immediately.	
Prepare EA	Prepare EA for each proposed action that is not categorically excluded.	40 CFR 1508.9		
Issue NOA	Issue a notice of availability (NOA) of the Draft EA.			
Public Comment of EA	Make Draft EA available for inspection by the public and other interested parties, and collect their written comments.	22 CFR 771.119(f)	Occurs within 30 days after issuing the NOA unless the Administration determines, for good cause, that a different period is warranted.	
Notice of Public Hearing	A public hearing is required when anyone with a significant social, economic, or environmental interest in the matter requests it.	40 CFR 1506.6(b); 23 CFR 771.119(e)	Occurs for a minimum of 15 days after issuing the NOA.	
Public Hearing on EA	Hold public hearing to obtain comments on EA. Written comments and comments received at the public hearing are taken into account. If it is determined that the proposed action is likely to have a significant impact on the environment, either the proposed action could be eliminated from further consideration, or modified to reduce the impacts below a level of significance. If no modifications are made to the proposed action, an EIS must be prepared instead of an EA.	40 CFR 1506.6(c); 23 CFR 771.119(d) and (e)	EA should be made available for public review 15 days in advance of hearing.	
Public Notice of EA	Public availability of the Final EA must be announced via a public notice. Written comments and comments received at the public hearing are taken into account. If it is determined that the proposed action is likely to have a significant impact on the environment, either the proposed action could be eliminated from further consideration, or modified to reduce the impacts below a level of significance. If no modifications are made to the proposed action, an EIS must be prepared instead of an EA.	40 CFR 1506.6(b)(2)	Occurs for a minimum of 15 days after Final EA prepared.	

<b>ENVIRONMENTAL DOCUMENTATION (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Public Review of EA	Final EA made available for review by the public, other interested parties, and affected units of the government.	23 CFR 771.119(h)	Occurs for a minimum of 30 days after Public Notice of EA.	
Determination by Region Whether to Write Errata				
Issue FONSI or Mitigated FONSI	Finding of No Significant Impact (FONSI) issued. A federal lead agency document presenting the reasons why a proposal will not significantly affect the environment and therefore will not require EIS documents.	40 CFR 1508.13		
Circulate FONSI		Encouraged by TA T6640.8A		
<b>Environmental Impact Statement</b>	All agencies of the Federal Government shall include, for major Federal actions significantly affecting the quality of the human environment, a detailed statement on the environmental impact of the proposed action; any adverse environmental effects which cannot be avoided should the proposal be implemented; alternatives to the proposed action.	NEPA, Sec. 102(2)(c) ; 40 CFR 1502.3; Timing: Sec.1500.2(c) , 1501.2, and 1502.2	Prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made.	
Issue Notice of Intent (NOI)	As soon as practicable after its decision to prepare an EIS and before the scoping process the lead agency shall publish a NOI (Section 1508.22) in the Federal Register except as provided in Sec. 1507.3(e).	40 CFR 1501.7; 40 CFR 1508.22		
Scoping	The scoping process is used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7.	23 CFR 771.123(b)	After publication of the Notice of Intent.	
Prepare Draft EIS	The DEIS is prepared to evaluate all reasonable alternatives to the proposed action and to discuss the reasons why other alternatives, which may have been considered, were eliminated.	40 CFR 1502.9; 23 CFR 771.123(c)		
File Draft EIS with EPA		40 CFR 1506.9; 23 CFR 771.123(e)	After the DEIS is approved and signed, it must be made available to the public and transmitted to agencies for comment no later than the date the document is filed with EPA. Each week, EPA publishes in the Federal Register a Notice of Availability for all the EISs filed the previous week.	

<b>ENVIRONMENTAL DOCUMENTATION (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Public and Agencies Comment on Draft EIS	Circulate and make the DEIS available for comment by the public, Federal, State, and local government agencies, as well as any interested stakeholders.	40 CFR 1506.19; 23 CFR 771.123(i)	Occurs for a minimum of 45 days after filing DEIS with EPA. If a calculated time period would end on a non-working day, the assigned time period will be the next working day (i.e., time periods will not end on weekends or Federal holidays).	
Notice of Public Hearing	Place notice in local newspapers, and other appropriate places and outlets, advertising the public hearing date and location.	40 CFR 1506.6(b); 23 CFR 771.123(h)	Occurs for a minimum of 15 days after filing DEIS with EPA (minimum of 15	
Public Hearing on Draft EIS	One or more public hearings is to be held to explain the project's purpose and need, alternatives under consideration, impacts of the project, relocation and ROW processes, and procedures for receiving oral and written comments.	40 CFR 1506.6(c )		
End of Comment Period		40 CFR Section 1506.10	The minimum time periods set forth 1506.10(b),(c), and (d) are calculated from the date EPA publishes the Notice of Availability in the <i>Federal Register</i> . Review periods for draft EISs, draft supplements, and revised draft EISs shall extend 45 calendar days unless the lead agency extends the prescribed period or a reduction of the period has been granted.	
Prepare Final EIS	After DEIS circulation and comments received have been considered, a Final EIS is prepared.	23 CFR 771.125(a)(1)		
Final EIS Legal Review	FEIS must be reviewed for legal sufficiency prior to FHWA approval.	23 CFR 771.125(2)(b)		
File Final EIS with EPA	File FEIS with EPA. The FEIS is to be transmitted to any persons, organizations, or agencies that made substantive comments on the DEIS on later than the time of filing with EPA. A Notice of Availability is placed in the Federal Register and published in local newspapers. FEIS is made available for public review.	40 CFR 1506.10 (b), (c ), and (d)	Occurs for a minimum of 30 days after date of filing with EPA (and after FHWA approval).	

<b>ENVIRONMENTAL DOCUMENTATION (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Issue Record of Decision (ROD)	ROD presents the basis for decision, summarizes mitigation measures, and documents any required Section 4(f) approval.	23 CFR 771.127(a)	ROD is completed and signed no sooner than 30 days after the publication of the FEIS in the Federal Registry or 90 days after publication of a notice for the DEIS, whichever is later. Until any required ROD has been signed, no further approvals may be given except for administrative activities taken to secure further project funding or other activities consistent with 40 CFR 1506.1.	

<b>ENDANGERED SPECIES ACT COMPLIANCE</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
ESA Compliance	A potential impact 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.	Endangered Species Act of 1973 - Section 7 and 65FR 42422		PE-D-06.03
Early Consultation - Contact FWS/NOAA	Contact the FWS/NMFS to request a list of threatened and endangered species and critical habitat in the area, or submit to the FWS/NMFS a list of species and critical habitat being reviewed. The purpose of this is to reduce the likelihood of conflicts between listed species or critical habitat and proposed actions. The minimal biological evaluation (BE) under Section 7 for any Federal-aid project not addressed programmatically, is a request to the Services for information on the presence of listed or proposed species or critical habitat in the project vicinity. If the Services respond that protected species or habitat are known not to occur in the action area, the environmental analysis with respect to the ESA is complete and the FHWA concurs in writing with a no effect determination by the State DOT.	ESA Part 402.12 2(c)		
Verification of Current Species List	The FWS/NMFS will prepare a list of threatened and endangered species and critical habitat in the area or will concur with the list prepared.	ESA Part 402.12(d)(2); Local Agency Guidelines Manual Sec.24.71	FWS/NOAA responds within 30 days.	
Conduct Studies/Surveys	If the Services respond that protected species or habitat are known or likely to occur in the project action area, the State DOT has the option of entering informal consultation or directly requesting formal consultation. The process of informal consultation is optional and is described in 50 CFR § 402, Interagency Cooperation-Endangered Species Act of 1973, as Amended, Subpart B, Consultation Procedures. The endangered species analysis should be appropriate to the scope of the project. It may be prepared as a BE or a BA in the case of an EIS. A distinction is made between the process for submitting a BA (which occurs in accordance with Part 50 CFR § 402.12 for EIS projects) and the preparation of a BE (which is developed during informal consultation and may be used to initiate formal consultation for EAs and CEs).	ESA Part 402.13; ESA Part 402.12 (e)	If the Federal Agency does not begin preparation of the BA within 90 days of receipt of (or concurrence with) the species list, the Federal agency must verify with the Service the current accuracy of the species list at the time the preparation of the BA is begun.	
Prepare BA	A document required for any major construction activity that analyzes the potential affects of the project on listed species and critical habitat and justifies a particular "effect determination". Federal agencies are responsible for evaluating impacts to listed species from all federal actions, regardless of scope. For actions other than a "major construction activity", the agency must still evaluate the potential for adverse effects and consult with the service, if necessary. The BA must include: Results of on-site inspections to determine the presence of listed species and/or critical habitat. Analysis of likely effects of the proposed action (and alternatives) on the species sand or critical habitat based on biological studies, literature review, and expert views.	ESA Part 402.14(a)(b)		PE-D-06.03.01

<b>ENDANGERED SPECIES ACT COMPLIANCE (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Submit BA	Submit completed BA to the FWS/NOAA.	ESA Part 402.12(f)	Complete BA within 180 days after the end of the previous step.	PE-D-06.03.01.01
FWS/NOAA Review	Completed BA is reviewed by the FWS/NOAA Directors. FWS/NOAA determines whether proposed action will have an adverse effect. If FWS/NOAA find that a listed species/critical habitat is likely to be adversely affected, Formal Consultation is initiated.	ESA Part 402.12(j)	Response within 30 days after BA is submitted.	
Initiate Formal Consultation	When there is a known species of critical habitat present or "likely to adversely effect" determination is made, formal consultation is initiated via a written request to the FWS/NOAA Director.	ESA Part 402.14(a)(b)		
FWS/NOAA Review	FWS/NOAA reviews and evaluates relevant information. With the exceptions that can be granted, this review can take longer than the maximum 135 days.	ESA Part 402.14(g)	Review and evaluation of all relevant information within 90 days unless an extension, not exceeding 60 days, is agreed to.	
FWS/NOAA Issue BO	A Biological Opinion is issued as to whether the proposed action is likely to jeopardize the continued existence of a threatened and endangered species and critical habitat in the area. Following the issuance of a biological opinion, the Federal agency shall determine whether and in what manner to proceed with the action in light of its section 7 obligations and the Service's biological opinion. If the Federal agency determine that it cannot comply with the requirements of section 7(a)(2) after consultation with FWS, it may apply for an exemption as described in 50 CFR 451.	ESA Section 402.14(h) and 402.15	Occurs for a minimum of 45 days after Formal Consultation has ended.	PE-D-06.03.01.02

<b>Right of Way Requirements</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Timing</b>				
Project Agreement / FHWA Authorization	As a condition of Federal-aid, the STD shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisitions, including hardship acquisition and protective buying (see 23 CFR 710.503). The STD must prepare a project agreement in accordance with 23 CFR part 630, subpart C.	23 CFR 710.307	Per the 2001 Stewardship Agreement, projects not on the Interstate system will be administered by the WSDOT Office of Real Estate Services	
NEPA before ROW Acquisition	Acquisition of right-of-way may only commence <b>after</b> the necessary environmental clearances have been met.	23 CFR 710.305		
<b>Appraisal</b>				
Appraisal	Real property must be appraised before the initiation of negotiations. The property must be appraised to determine the "just compensation" due the property owner	49 CFR 24.102 (a); 49 CFR 24.102 (c); RCW 8.26.180 (2)	See 49 CFR 24.102 (c) (2) for exceptions - an appraisal may be waived under certain circumstances. See also WAC 468-100-102 for more information on appraisal standards and criteria.	PE-D-17.06.01
Owner Accompaniment	The owner or his representative shall be given an opportunity to accompany an appraiser during an appraisal.	49 CFR 24.102 (c) (i); RCW 8.26.180 (2)		PE-D-17.06.01
Appraisal Review	The agency shall have an appraisal review process. A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.	49 CFR 24.104; WAC 468-100-103	May be performed by a "qualified reviewing appraiser"	PE-D-17.06.02

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Negotiations</b>				
Acquire by negotiation	"Every reasonable effort shall be made to acquire expeditiously real property by negotiation"	49 CFR 24.102 (a); RCW 8.26.180 (1)	See WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.03
Prompt offer, Summary statement	Once just compensation has been established, "make a prompt offer to acquire the property for the full amount so established". Provide the property owner with a written statement of the just compensation established and the basis thereof .	49 CFR 24.102 (d) (e) (f); RCW 8.26.180 (3)	See WAC 468-100-101 for exceptions to acquisition requirements. WAC 468-100-002(12) Initiation of Negotiation	PE-D-17.06.03
Negotiation procedures	The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase.	49 CFR 24.102 (f)		PE-D-17.06.03
Inverse Condemnation	The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.	49 CFR 24.108(l); RCW 8.26.180 (8)	WAC 468-100-002(23)	PE-D-17.06.03
Coercive Action	In no event shall the time of condemnation be advanced, funds be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.	49 CFR 24.108(h); RCW 8.26.180 (7)		PE-D-17.06.03
Offer to acquire uneconomic remnants	the agency shall offer to acquire uneconomic remnants - "a parcel of real property in which the owner is left with an interest after the partial acquisition	49 CFR 24.102(k); RCW 8.26.180 (9)	See WAC 468-100-101 for exceptions to acquisition	PE-D-17.06.03
Acquisition of buildings, structures, and improvements, acquisition of tenant-owned improvements.		RCW 8.26.190	WAC 468-100-104. See WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.03

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Condemnation</b>				
Eminent Domain By State		RCW 8.04		PE-D-17.06.05
Additional Provisions Applicable to Eminent Domain Proceedings		RCW 8.25		PE-D-17.06.05
Pretrial statement of compensation to be paid in event of settlement.	In all actions for the condemnation of property, or any interest therein, at least thirty days prior to the date set for trial of such action the condemnor shall serve a written statement showing the amount of total just compensation to be paid in the event of settlement on each condemnee who has made an appearance in the action.	RCW 8.25.010		PE-D-17.06.05
Payment to defray costs of evaluating offer	There shall be paid by the condemnor in respect of each parcel of real property acquired by eminent domain or by consent under threat thereof, in addition to the fair market value of the property, a sum equal to the various expenditures actually and reasonably incurred by those with an interest or interests in said parcel in the process of evaluating the condemnor's offer to buy the same, but not to exceed a total of seven hundred fifty dollars.	RCW 8.25.020		PE-D-17.06.05
Reasonable attorney's fees and expert witness fees	Award of attorney's fees and witness fees to condemnee -- Conditions to award Award of costs in air space corridor acquisitions -- Conditions Costs -- Award to condemnee or plaintiff -- Conditions.	RCW 8.25.070 RCW 8.25.073 RCW 8.25.075; RCW 8.26.210		PE-D-17.06.05
Conclusions of appraisers -- Order for production and exchange between parties.	After the commencement of a condemnation action, upon motion of either the condemnor or condemnee, the court may order, upon such terms and conditions as are fair and equitable the production and exchange of the written conclusions of all the appraisers of the parties as to just compensation owed to the condemnee, as prepared for the purpose of the condemnation action, and the comparable sales, if any, used by such appraisers. The court shall enter such order only after assurance that there will be mutual, reciprocal and contemporaneous disclosures of similar information between the parties.	RCW 8.25.120		PE-D-17.06.05

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Special Benefits	Special benefits to remaining property -- Purpose Special benefits to remaining property -- Options -- Election by owner -- Consent to creation of lien Special benefits to remaining property -- Satisfaction or release of lien -- Trial - Expiration of lien by operation of law. Special benefits to remaining property -- Judgment -- Maximum amounts -- Offsets -- Interest. Special benefits to remaining property -- Attorney fees -- Witness fees. Special benefits to remaining property -- Lien foreclosure proceedings -- Stay	RCW 8.25.210 RCW 8.25.220 RCW 8.25.230 RCW 8.25.240 RCW 8.25.250 RCW 8.25.260		PE-D- 17.06.05
Certain litigation expenses	The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, and expert witness fees, which the owner actually incurred because of a condemnation proceeding	49 CFR 24.107; WAC 468-100-105		PE-D- 17.06.05
Coercive Action	In no event shall the time of condemnation be advanced, funds be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.	50 CFR 24.108(h); RCW 8.26.180 (7)		PE-D- 17.06.04

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Acquisition</b>				
Acquisition and Disposition of State Highway Property		RCW 47.12		PE-D-17.06.03
Payment before possession	The agreed purchase price must be paid or deposited with a court having jurisdiction of condemnation of such property before the agency can take possession	49 CFR 24.102 (j); RCW 8.26.180 (4)	See WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.03
Incidental Expenses	The owner of the property shall be reimbursed for expenses incidental to transfer of right, title, or interest to the acquiring agency	49 CFR 24.106; RCW 8.26.200	WAC 468-100-105	PE-D-17.06.03
Payment before possession	The agreed purchase price must be paid or deposited with a court having jurisdiction of condemnation of such property before the agency can take possession	49 CFR 24.102 (j); RCW 8.26.180 (4)	See WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.03
Procurement	Contracting for all activities required in support of State right-of-way programs through use of private consultants and other services shall conform to 49 CFR 18.36.	23 CFR 710.201 [g]		
Offer to acquire uneconomic remnants	the agency shall offer to acquire uneconomic remnants - "a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and that the head of the agency concerned has determined has little or no value or utility."	49 CFR 24.102(k); RCW 8.26.180 (9)	See WAC 468-100-101 for exceptions to acquisition requirements. WAC 468-100.002(20) Uneconomic Remainder	PE-D-17.06.04
Acquisition of buildings, structures, and improvements, acquisition of tenant-owned improvements.		RCW 8.26.191	WAC 468-100-104. See WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.04

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>Relocation</b>				
90-day notice	Give ninety days written notice in advance of requiring a legal occupier to move	49 CFR 24.203; RCW 8.26.180 (5)	"to the greatest extent practicable". Also, see WAC 468-100-101 for exceptions to acquisition requirements	PE-D-17.06.03
Payment for moving and related expenses.		RCW 8.26.035		PE-D-17.06.06
Payment for replacement housing for homeowners.		RCW 8.26.045		PE-D-17.06.06
Payment for replacement housing for tenants and others.		RCW 8.26.055		PE-D-17.06.06
Relocation assistance advisory services.		RCW 8.26.065		PE-D-17.06.06
Assurance of availability of housing -- Exceptions.		RCW 8.26.075		PE-D-17.06.06
Relocation Notices	The agency must send a general relocation information notice, notice of relocation eligibility, and a 90-day notice	49 CFR 24.203; WAC 468-100-203		PE-D-17.06.06
Availability of comparable replacement dwelling before displacement	No person to be displaced shall be required to move from the person's dwelling unless at least one comparable replacement dwelling (defined in WAC 468-100-002(4))[(5)] has been made available to the person.	WAC 468-100-204; See WAC 468-100-204 (2) and (3) for exceptions		PE-D-17.06.06
Relocation Planning	Plan projects so as to minimize displacement; estimate displacement and plan for relocation services	WAC 468-100-205 (1)		PE-D-17.06.06
Relocation assistance advisory services	Offer relocation assistance in accordance with Title VI and other Federal laws	WAC 468-100-205 (2) - (4)		PE-D-17.06.06

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Payments for moving and related expenses		49 CFR 24 Subpart D; WAC 468-100 Subpart D		PE-D-17.06.06
Replacement housing payments		49 CFR 24 Subpart E; WAC 468-100 Subpart E		PE-D-17.06.06
Mobile homes	Information on payments to owners or tenants of mobile homes	49 CFR 24 Subpart F; WAC 468-100 Subpart F		PE-D-17.06.06
Last resort housing		49 CFR 24.404; WAC 468-100 Subpart G		PE-D-17.06.06
90-Day Notice to Vacate	Give ninety days written notice in advance of requiring a legal occupier to move.	49 CFR 24.203; RCW 8.26.180 (5)	a 90 day notice is not effective for a residential occupant unless a comparable replacement dwelling has been made.	

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
<b>ROW Certification</b>				
Certification	The State must certify that it will comply with State laws that accomplish the purpose of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.	24 CFR 601; 49 CFR Part 24 Subpart G.	Applicable when Federal dollars are utilized in any phase of a project.	PE-D-17.06
ROW Certification (PE-D-17.07)	WSDOT must certify to FHWA that the ROW has been acquired and cleared in accordance with FHWA directives, and that people (if any) have been relocated according to the Highway Relocation Assistance Program. There are a few exceptions possible - see 23 CFR.309 (c) 2 &3 for more detail.	23 CFR 635.309	FHWA authorization of advertisement of physical construction for bids or to proceed with force account construction cannot be given.	
<b>Property Management</b>				
Rent (Displacee)	If an owner or tenant is permitted to occupy the real property acquired, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.	49 CFR 24.108(m); RCW 8.26.180 (6)		PE-D-17.06.03
<b>General</b>				
Comply with 49 CFR 24		23 CFR 710.309		PE-D-17.06.03
Maintain a Right-of-Way Manual		23 CFR 710.201 [c]		
Prepare and adopt operating procedures		WAC 468-100-004		
Certify that the Right-of-Way Manual is up to date	WSDOT should keep the ROW Manual current and in compliance with Federal and State laws and regulations, and certify to FHWA that this is so every five years.	23 CFR 710.201 [c] 2	Washington Federal-aid Stewardship Agreement, 2001.	
Title VI	Title 49, CFR part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race,	23 CFR 200	Applicable when Federal dollars are utilized in any phase of a project.	

<b>Right of Way Requirements (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Compliance with other laws and regulations.	Section I of the Civil Rights Act of 1866 (42 USC 1982 et seq.); Section I of the Civil Rights Act of 1866 (42 USC 1982 et seq.); Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.); Title VIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.), as amended; The National Environmental Policy Act of 1969 (42 USC 4321 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 USC 790 et seq.); Executive Order 12250 - Leadership and Coordination of Non-Discrimination Laws; Executive Order 11063 - Equal Opportunity and Housing, as amended by Executive Order 12259; Executive Order 11246 - Equal Employment Opportunity; Executive Order 11625 - Minority Business Enterprise; Executive Order 12259 - Leadership and Coordination of Fair Housing in Federal Programs; The Flood Disaster Protection Act of 1973 (Pub. L. 93-234); Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands; The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).	WAC 468-100-008		
Compliance with other laws and regulations.	Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.); Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended; The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.); Executive Order 12250 - Leadership and Coordination of Non-Discrimination Laws; Executive Order 11063 - Equal Opportunity and Housing, as amended by Executive Order 12259; Executive Order 11246 - Equal Employment Opportunity; Executive Order 11625 - Minority Business Enterprise; The Flood Disaster Protection Act of 1973 (Pub. L. 93-234); Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands; The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); N. Executive Order 12250 – Leadership and Coordination of Non Discrimination Laws.	49 CFR 24.8		
Retention of Records	The agency is required to retain records for three years from the date of acceptance of the final voucher for the project.	23 CFR Part 17; WAC 468-100-009		
Planning	"State and local governments conduct metropolitan and statewide planning to develop coordinated, financially constrained system plans to meet transportation needs for local and statewide systems, under FHWA's planning regulations contained in 23 CFR part 450. In addition, air quality non-attainment areas must meet the requirements of the U.S. EPA Transportation conformity regulations (40 CFR parts 51 and 93). Projects must be included in an approved State Transportation Improvement Program (STIP) in order to be eligible for Federal-aid funding."	24 CFR 710.303		
Width of ROW	WSDOT shall acquire right of way with a width of 100 feet for state highways unless engineering or other considerations require a different width.	RCW 47.28.020		

<b>DESIGN REQUIREMENTS</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional</b>	<b>MDL#</b>
<b>General</b>				
FHWA Financial Plan	A Financial Plan is a comprehensive document that is required for Federally funded projects with an estimated total cost of \$1,000,000,000 or more that reflects the cost (requirement) and revenue structure (capability) of a project and provides a reasonable assurance that there will be sufficient financial resources available to implement and complete the project as planned. The Initial Financial Plan and each Annual Update is submitted to the FHWA Division Administrator for review and acceptance.	23 USC 106 (h)		PE-D-09.01
FHWA PS&E Approval	"No project or part thereof for actual construction shall be advertised for contract nor work commenced by force account until the PS&E has been approved by the FHWA and the SHA has been so notified." Applies to interstate projects, new or reconstruction.	23 CFR 630.205 ; RCW 47.28		PE-D-33.04
FRA PS&E Review				PE-D-33.05
FTA PS&E Review				PE-D-33.06
Public Hearing	Any State highway department which submits plans for a Federal-aid highway project involving the bypassing of or, going through any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings	23 USC 128; 23 CFR 771.111		PE-D-15
FAA Airport / Highway Clearance	Notice should be given to the appropriate FAA Regional Office prior to construction in the vicinity of an airport or over a certain height. The WSDOT District should complete and submit FAA Form 7460-1 "Notice of Proposed Construction or Alteration" at least 30 days before construction.	14 CFR 77		
<b>Value Engineering</b>				
Perform Value Engineering	FHWA requires the application of value engineering (VE) to all Federal-aid highway projects on the National Highway System (NHS) with an estimated cost of \$25 million or more.	23 CFR 627.1 (a)		PE-S-20; PE-D-24
Value Engineering Study	Value engineering studies shall follow the widely recognized systematic problem-solving analysis process that is used throughout private industry and governmental agencies. Studies must be performed using multi-disciplined teams of individuals not personally involved in the design of the project.	23 CFR 627 (a) (2)		
Incorporate VE Recommendations into PS&E	Incorporate "all resulting, approved recommendations...into the plans, specifications and estimate"	23 CFR 627.1 (b)		

<b>DESIGN REQUIREMENTS (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional</b>	<b>MDL#</b>
<b>Design Standards</b>				
Compliance with Americans with Disabilities Act requirements	ADA compliance in design of all future buildings (and facilities) for which Federal and Federal-aid funds are used.	23 CFR 625; 49 CFR 27.19		
Conform to National ITS Architecture	(Applies only to ITS Projects)	23 CFR 940.5		
Width of ROW	WSDOT shall acquire right of way with a width of 100 feet for state highways unless engineering or other considerations require a different width	RCW 47.28.020		
Design standards for rearranged county roads, frontage roads, access roads, intersections, ramps and crossings		WAC 468-18-040		
Policy on the construction, improvement and maintenance of intersections of state highways and city streets.		WAC 468-18-050		
Use State standards	"Federal-aid projects not on the NHS are to be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards." (Applies only to Federal-aid projects not on the NHS) Use State standards as approved by FHWA (Applies to non-freeway NHS RRR projects)	23 CFR 625.3 (a) (2); 23 CFR 625.4 (a)(3)		
Deviations from standards must be approved		23 CFR 625.3 (1) (f)		PE-D-26.03; CA-DO-02
Comply with standards (incorporated by reference)		23 CFR 625.4		
<i>Roadway and appurtenances standards</i>	List of design standards incorporated by reference	23 CFR 625.4 (a); 23 CFR 650 subparts A & B; 23 CFR 772		PE-S-15; PE-D-19
Procedures for Abatement of Highway Traffic Noise and Construction Noise		23 CFR 772; 23 CFR 625.4 (a) (6)		PE-S-15; PE-D-19

<b>DESIGN REQUIREMENTS (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional</b>	<b>MDL#</b>
Accommodation of Utilities		23 CFR 645 subpart B; 23 CFR 625.4 (a) (7)		PE-S-19; PE-D-23; CA-U
Pavement Design	"Pavement shall be designed to accommodate current and predicted traffic needs in a safe, durable, and cost effective manner."	23 CFR 626; 23 CFR 625.4 (a) (8)		
<i>Bridges and structures standards</i>	List of design standards incorporated by reference.	23 CFR 625.4 (b)		PE-D-21
Navigational Clearances for Bridges		23 CFR part 650, subpart H; 23 CFR 625.4 (b) (11)		PE-D-21
<i>Materials standards</i>	List of design standards incorporated by reference.	23 CFR 625.4 (c); 23 CFR part 635, subpart D		PE-S-09; PE-D-12
<b>Access Management</b>				
Federal approval of new access points on the Interstate System	"All agreements between the Secretary and the State transportation department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary."	23 USC 111	At WSDOT, this is done through an Access Point Decision Report.	PE-D-04; PE-D-04.01
Establishment of limited-access facility	"The designation or establishment of a limited access facility shall, by the authority making the designation or establishment, be entered upon the records or minutes of such authority in the customary manner for the keeping of such records or minutes."	RCW 47.52.070		
Limited-access facility - Abutter's right of access protected -- Compensation	Abutter's right of access shall be purchased, waived, or condemned - the owner is entitled to compensation is the property was used for business.	RCW 47.52.080		
Access Report	Before the public hearing for a limited access facility, the department shall consider various factors on the impact of the facility and provide the results of this consideration to local authorities in a report. See RCW 47.52.134 for exceptions.	RCW 47.52.131		PE-D-05.01
Access Hearing	Whenever limited access is established or revised on new or existing highways, a public hearing must be held within the jurisdiction where the facility is to be established. See RCW 47.52.134 for exceptions. See RCW 47.52.135 and WAC 468-54-050 for hearing procedures.	RCW 47.52.133		PE-D-05.04
Notice of Access Hearing	Notify abutters by US Mail; publish a notice in newspaper "of general circulation" at least 15 days ahead of time.	RCW 47.52.133; WAC 468-54-040		PE-D-05.04

<b>DESIGN REQUIREMENTS (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional</b>	<b>MDL#</b>
Findings and order package	Adopt a plan following the conclusion of the access hearing. See RCW 47.52.137 for distribution and notification requirements for the plan.	RCW 47.52.137; WAC 468-54-070		PE-D-05.05
Guides for application of access control of state highways		WAC 468-58-090		
Guides for the application of modified access control on existing state highways		WAC 468-58-100		
Access Control Category	"An access control category shall be assigned to each segment of the state highway system by July 1, 1993."	RCW 47.50.090 3 (e)		PE-S-02
Categorize highway-access connections	Determine all connections, public or private, to be Category I - IV, nonconforming, variance, or median opening.	WAC 468-51-040		
Criteria for Access Assignment	Standards for the assignment of a road to a specific access category.	RCW 47.50.090 3 (c)		PE-S-02
<b>Traffic Control Devices</b>				
Standards for Traffic Control Devices		23 CFR 655.603; WAC 468-95; RCW 47.36		PE-D-22.08; PE-D-22.09; PE-D-22.10
Work Zone Traffic Control	"Each highway agency shall develop and implement procedures...that will assure the safety of motorists, pedestrians, and construction workers on Federal-aid highway construction projects." An amendment to 23 CFR 630 Subpart J published September 9, 2004, in 69 FR 54569 will become effective on October 12, 2007.	23 CFR 630 Subpart J		PE-S-21; PE-D-25; PE-D-27.35

# CONTRACTING

Requirement	Description	Authority	Additional Information	MDL#
Right-of Way Contractual Services		49 CFR 18.36(a) and 18.37(b), 23 CFR 710		
Select Contract Method	Competitive Proposals, Noncompetitive Proposals, Small Purchase Procedures, Sealed Bids, Qualifications-based procedures.	23 CFR 172.5(a); 40 USC 541-544; 41 USC 403(11)		
Pre-qualification Screening	Bid proposals upon any construction or improvement of any state highway shall be made upon contract proposal form supplied by the department and in no other manner. The department shall, before furnishing any person, firm, or corporation desiring to bid upon any work for which a call for bid proposals has been published with a contract proposal form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing state highway, road, or other public work.	RCW 47.28.070; RCW 468.16; WAC 468.16	Before calling for bid proposals.	
Administration of Engineering and Design Related Service Contracts	The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 USC. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost.	23 USC 112; 49 CFR 18; 23 CFR 172		
Procurement - Select Contract Method	Competitive negotiation, Small purchases, or noncompetitive negotiation.	23 CFR 172.5(a); 40 USC 541-544; 41 USC 403(11)		
Written Procedures	The contracting agency shall prepare written procedures for each method of procurement it proposes to utilize. These written procedures and all revisions shall be approved by the FHWA for recipients of federal funds.	23 CFR 172.9(a)		
Approval of Procedures	Recipients shall approve the written procedures and all revisions for their subrecipients.	24 CFR 172.9(a); RCW 47.28.070		

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
<b>Construction and Maintenance Contract Procedures</b>	Actual construction work shall be performed by contract awarded by competitive bidding; unless, as provided in §635.104(b), the STD demonstrates to the satisfaction of the Division Administrator that some other method is more cost effective or that an emergency exists.	23 CFR 635 Subpart A		
Participation by disadvantaged business enterprises	Contract lettings should be scheduled in a balanced program providing contracts of such size and character as to assure an opportunity for all sizes of contracting organizations to compete.	23 CFR 635.107; Title IV of the Civil Rights Act of 1964; 49 CFR 26 - 28 CFR 35; 41 CFR 60; 47 CFR 28.030(3)		
Title IV Review	Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds.	23 CFR 200.9(7)		
Notification of Differing Site Conditions	During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions.	23 CFR 635.109(1)	Notification before the site is disturbed and before the affected work is performed.	
Engineer Investigation	An engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly.	23 CFR 635.109(1)(ii)	Upon Notification of Differing Site Conditions	
Request for Adjustment	If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment.	23 CFR 635.109(2)	Within 7 calendar days of receipt of the notice to resume work.	
Contract Adjustment	If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly.	23 CFR 635.109(2)(ii)	Upon Receipt of Request for Adjustment	

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
Submit proposed procedures	The procedures and requirements proposed to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval.	23 CFR 635.110(a)	Before contract awarded	
DA Authorization	No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization by the Division Administrator.	23 CFR 635.112(a)		
Advertisement	Publishing public notice of call for bids as prescribed by statute. Request for Proposal: A legal notice for solicitation of consulting services. The proposal solicitation (project, task, or service) process shall be by public announcement, advertisement, or any other method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Price shall not be used as a factor in the analysis and selection phase.	23 CFR 172.5(a); 23 CFR 635.112(b)		PE-D-38.04
Ad Date	The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the Division Administrator in special cases when	23 CFR 635.112(b); RCW 47.28.050	Fed: Minimum of 3 weeks prior to opening of bids// WA: Once a week for at least two consecutive	PE-D-38.05
Addendum Deadline	A written or graphic document, issued to all bidders and identified as an addendum prior to bid opening, which modifies or supplements the bid documents and becomes part of the contract.		Due 14 calendar days prior to the scheduled bid opening.	PE-D-38.01
Bid Period	Public opening and reading of sealed bids. WSDOT shall publicly open and read the final figure in each of the bid proposals that have been properly filed and read only the unit prices of the three lowest bids.	RCW 47.28.090	Time and place named in the call for bids	PE-D-38.06
(design-build) RFP	The NEPA review process is concluded with either a Categorical Exclusion classification, an approved Finding of No Significant Impact, or an approved Record of Decision as defined in 23 CFR 771.113(a).	23 CFR 636.109(b)	Must not be released prior to the conclusion of the NEPA process.	
DA RFP Approval	The FHWA Division Administrator's approval of the Request for Proposals document will constitute the FHWA's project authorization and the FHWA's approval of the STD's request to release the document. This approval will carry the same significance as plan, specification and estimate approval on a design-bid-build Federal-aid project.	23 CFR 635.112(1)		
Public Announcement of Bids	All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount.	23 CFR 635.113(a)		
Construction Funding Approval	Official approval from HQ Program Management and FHWA (if federal funds are used) to move ahead with the advertisement of the construction phase of a project. Contracts and contract settlements involving design services for projects that have not been delegated to the State under 23 USC. 106(c), that do not fall under the small purchase procedures in §172.5(a)(2), shall be subject to the prior approval by FHWA, unless an alternate approval procedure has been approved by FHWA. When Federal-aid highway funds participate in the contract, the contracting agency shall receive approval from the FHWA before hiring a consultant to act in a management role for the contracting agency.	23 CFR 172.9(b) and (d)		PE-D-38.02

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
Construction Funding Approval	Official approval from HQ Program Management and FHWA (if federal funds are used) to move ahead with the advertisement of the construction phase of a project. Contracts and contract settlements involving design services for projects that have not been delegated to the State under 23 USC. 106(c), that do not fall under the small purchase procedures in §172.5(a)(2), shall be subject to the prior approval by FHWA, unless an alternate approval procedure has been approved by FHWA. When Federal-aid highway funds participate in the contract, the contracting agency shall receive approval from the FHWA before hiring a consultant to act in a management role for the contracting agency.	23 CFR 172.9(b) and (d)		PE-D-38.02
Printing (plans/specifications)	Reproduction and distribution of plans, specifications, and bid proposal package.	(2002 Standard Specifications 1-02.2)		PE-D-38.03
Request for Contract Concurrence	WSDOT shall formally request concurrence by the Division Administrator in the award of all Federal-aid contracts. Federal-aid contracts shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting the criteria of responsibility as may have been established by the STD in accordance with §635.110.	23 CFR 635.114(a) and (b)	Awarded within WSDOT-established timeframe	
Agreement Estimate	An agreement estimate based on the contract unit prices and estimated quantities shall be prepared by the STD and submitted to the Division Administrator as soon as practicable for use in the preparation of the project agreement. The agreement estimate shall also include the actual or best estimated costs of any other items to be included in the project agreement.	23 CFR 635.115(a)	Following Contract Award	
Retain Payrolls	Copies of payrolls and statements of wages paid, filed with the State as set forth in the required contract provisions for the project, are to be retained for the time period pursuant to 49 CFR part 18 for review as needed by the Federal Highway Administration, the Department of Labor, the General Accounting Office, or other agencies.	23 CFR 635.118		
Cost Analysis of Contract Changes	The state transportation department shall perform and adequately document a cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator.	23 CFR 635.120(e)		
Termination of Contract	All contracts exceeding \$10,000 shall contain suitable provisions for termination by the State, including the manner by which the termination will be effected and the basis for settlement. The state transportation department prior to termination of a Federal-aid contract shall consult with and receive the concurrence of the Division Administrator.	23 CFR 635.125(a) and (b)		

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
Review of Form FHWA-47	The state transportation department shall review the Form FHWA-47 for reasonableness and promptly transmit the form to the Division Administrator in accordance with the instructions printed in the form.	23 CFR 635.126(c)	Upon Receipt of FHWA-47 from Contractor	
Establish Liquidated Damage Rates	Each State transportation department (STD) shall establish specific liquidated damages rates applicable to projects in that State. The rates may be project-specific or may be in the form of a table or schedule developed for a range of project costs and/or project types. These rates shall, as a minimum, be established to cover the estimated average daily construction engineering (CE) costs associated with the type of work encountered on the project.	23 CFR 635.127(a)		
Provide Bid Price Data	For each contract exceeding \$500,000, FHWA requires that States provide information on the quantity of materials used and the installed price of the materials (representing materials, labor, overhead, and profit) from contracts to construct and maintain roads on the NHS.			
Contract Award	Official notice of award of the contract to the successful bidder. WSDOT shall award the contract to the lowest responsible bidder unless the department has, for good cause, continued the date of opening bids to a day certain, or rejected that bid.	RCW 47.28.090; 23 CFR 172.5(a)(1), (2) and (3); 23 USC 112(b)(2) ; 49 CFR 26		PE-D-38.07
Sign Contract	the successful bidder shall return the signed Contracting Agency-prepared contract, an insurance certification as required by Section 1-07.18, and a satisfactory bond as required by law and Section 1-03.4.	(2002 Standard Specifications 1-03.3)	Within 20 calendar days after the award date.	
Record of Materials Delivered	HQ Materials Lab Documentation Section is to provide the Project Office with the Record of Materials		Provided within 5 days of contract award.	PE-D-38.08
<b>Consultant Administration</b>		23 CFR 172 Subpart A, 23 USC 112		PE-S-01.01
RFP	The RFP Package describes the project, the requirements for submitting BAFFPs, the selection process, the technical requirements for designing and constructing the project, and the contract terms.	RCW 47.28.070		PE-S-01.01.01
Selection	The process of reviewing, scoring and selecting a Consultant.	RCW 47.28.090		PE-S-01.01.02
Negotiations & Signed Contract	A legally binding contract between WSDOT and a Consultant for services rendered.	RCW 47.28.090		PE-S-01.01.03
Management	The process for delivering a contracted product within the parameters of a legally binding contract.	2002 Standard Specifications 1-05.13		PE-S-01.01.04

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
Contract Acceptance	After all contractual obligations have been fulfilled the Department accepts the contract as complete by signature of the Secretary on the Final Contract Voucher Certification.	(2002 Standard Specifications 1-05.12)	Date the Secretary signs the Final Contract Voucher Certification.	CN-CC-04
Substantial Completion	The date the Engineer determines the Contracting Agency has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remains for the physical completion of the total contract.	(2002 Standard Specifications 1-08.9; 1-05.11)		CN-CC-01
Substantial Completion Letter Sent to Contractor		(2002 Standard Specifications 1-08.9)		CN-CC-01.01
Physical Completion	The day all of the work is physically completed on the project. All documentation required by the contract and required by law does not necessarily need to be furnished by the Contractor by this date.	(2002 Standard Specifications 1-05.12)		CN-CC-02
Physical Completion Letter Sent to Contractor	Formal notification of the impending establishment of a completion date and unilateral final acceptance will be provided by certified letter from the Secretary to the Contractor, which will provide 30 calendar days for the Contractor to submit the necessary documents.	(2002 Standard Specifications 1-08.5)	The physical work on the project must be complete; and the Contractor must furnish all documentation required by the contract and required by law, to allow the Contracting Agency to process final acceptance of the contract.	CN-CC-02.01
Completion	A stage of completion that generally follows Physical completion where all administrative paperwork required by the contract has been submitted. All aspects of the work both physical and administrative are completed and the job is now ready for Acceptance by the Secretary of the Department.	(2002 Standard Specifications)	The date the Secretary unilaterally signs the Final Contract Voucher Certification shall constitute the completion date and the final acceptance date (Section 1-05.12).	CN-CC-03
Letter of Completion sent to Secretary				CN-CC-03.01
Contract Execution	This is the date on which the contract between WSDOT and the contractor for completion of the work has been fully executed or signed.	(2002 Standard Specifications 1-03.3)		CN-CS-01.01
First Chargeable Working Day	The first day that can be charged against the contract. This day is usually the 10th calendar day following execution but is also sometimes changed by Special Provision.	(2002 Standard Specifications 1-08.5)		CN-CS-01.02 CN-CS-01.02

## CONTRACTING (continued)

Requirement	Description	Authority	Additional Information	MDL#
<b>Contract Administration CN-CS-01</b>				
Contract Records	Construction records that are prepared to document the completion of the contract. Some of these records include contract payments, contract materials, Correspondence, etc.	(2002 Standard Specifications 1-07.11)		CN-CS-01.03
Contract Surveying	Survey work necessary for the layout and construction of the project. The department shall cause the highway to be surveyed throughout the entire length of the proposed construction, alteration, repair, or improvement and cause to be prepared maps, plans, and specifications, together with an estimate of the cost of the proposed work, and such information and directions as will enable a contractor to carry them out.	RCW 47.28.040	Before entering into any contract for the construction, alteration, repair, or improvement of any state highway.	CN-CS-01.04
Inspection	Inspection activities conducted by the Project Engineer and their staff to ensure the construction effort adheres to the requirements noted in the contract plans, contract provisions as well as the Standard Specifications for Road Bridge and Municipal Construction.	(2002 Standard Specifications 1-05.6)		CN-CS-01.05
Materials Testing and Acceptance	Construction Project Engineers actions to approve and accept materials for use in WSDOT Construction projects. See contract Provisions, Contract Plans, Amendments to the Standard Specifications, Standard Specification, and Construction Manual for specific requirements and guidance.	(2002 Standard Specifications 1-05.6; 1-06.2(1))		CN-CS-01.08
Qualified Tester Modules	A program implemented by the HQ Lab to ensure the use and understanding of national standard test procedures such as AASHTO, ASTM, WAQTC, as well as WSDOT procedures. This program uses elements of the HQ Materials Lab accreditation extending that accreditation to testing completed in field offices and on construction sites.	(WSDOT Materials Manual and 2002 Standard Specifications 1-06.2(1))		CN-CS-01.08.01
Prime Contractor Performance Report	An evaluation of contractor performance shall be made. A Prime Contractor Performance Report Manual provides detailed instructions for preparation of the prime contractor performance report.	WAC 468-16-210		
Retained Percentage	Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.	RCW 60.28.010	Within 60 days after completion of contract work.	

## Utilities Relocation

Requirement	Description	Authority	Additional	MDL#
<b>Utilities Relocation</b>				
Eligibility of utility relocations for Federal reimbursement		23 CFR 645.107		
Alternate Procedures	According to the 2001 Stewardship Agreement, WSDOT has been and may continue to operate under the alternate procedures, which allow WSDOT to conduct review and approvals necessary to authorize utilities to proceed with and complete the work.	23 CFR 645.119		
Authorization to proceed with physical relocation of a utility's facilities	FHWA (or WSDOT when using alternate procedures (23 CFR 645.119)) may give approval to proceed once certain criteria have been met. Criteria include inclusion in the STIP, satisfying the NEPA process, and approval of the plans, estimates, agreements, and schedule. See 23 CFR 645.113 (h) for exceptions.	23 CFR 645 113. (g)		
Agreement between utility and the transportation department	This agreement is required on Federal-aid and direct Federal projects involving utility relocations and should include responsibilities for financing and accomplishing the relocation. See 23 CFR 645.133 for details.	23 CFR 645.133		PE-D-23.05
Billing utility costs	The costs of force account work performed for the utility by the TD and of contract work performed for the utility under a contract let by the TD shall be reported separately from the costs of other force account and contract items on the highway project.	23 CFR 645.115 (c)		
Utility relocation cost development and reimbursement	All utility relocation costs shall be recorded by means of work orders in accordance with an approved work order system except when another method of developing and recording costs, such as lump-sum agreement, has been approved by the TD and the FHWA.	23 CFR 645.117		
<b>Accommodation of Utilities</b>		23 CFR 645 subpart B; 23 CFR 625.4 (a) (7); RCW 47.44		PE-S-19; PE-D-23; CA-U
Utility Accommodation Plan	To be submitted to FHWA - sets out "procedures, criteria, and standards...to evaluate and approve individual applications of utilities on freeways."	23 CFR 645.209 (c); 23 CFR 645.211		
General Requirements for Utility Accommodation		23 CFR 645.209		
Exercise Uniform Policies and Procedures	for utility accommodation.	23 CFR 645.209 (d)		

## Utilities Relocation (continued)

Requirement	Description	Authority	Additional	MDL#
Joint Use Agreements		23 CFR 645.209 (i)		
Traffic control plan	"Whenever a utility installation, adjustment or maintenance activity will affect the movement of traffic or traffic safety, the utility shall implement a traffic control plan..."	23 CFR 645.209 (j)		
State transportation department accommodation policies	Describes minimum provisions of such policies and instructs FHWA to use AASHTO publications "A Guide for Accommodating Utilities Within Highway Right-of-Way" and "Roadside Design Guide" to evaluate such policies. Washington State's policy is WAC 468-34: Utility Lines -- Franchises and Permits.	23 CFR 645.211		
Use and occupancy agreements	Required terms of a written agreement with the utility which is to cross or otherwise occupy the highway right-of-way.	23 CFR 645.213		
Hearing Procedures	Adopt rules "providing for a hearing or an opportunity for a hearing..." The department is not required to hold a hearing and may grant a permit without it.	RCW 47.44.010		
<b>State-railroad agreements</b>	Where construction of a Federal-aid project requires use of railroad properties or adjustments to railroad facilities, there shall be an agreement in writing between the State highway agency and the railroad company.	23 CFR 646.216 (d)		

<b>RCRA</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
RCRA Dangerous Waste Permit and Site ID Number		RCRA of 19766; Wastes Regulated by 40 CFR 261; WAC 173-303		
Identify Hazardous Material	Determine if hazardous substances or wastes may be present at or in the vicinity of the proposed action. If it is determined that hazardous materials are not present at, or in the vicinity of the proposed action, then this is stated in EA/EIS and process is complete.	Resource Conservation and Recovery Act of 1976 (RCRA); RCW 70.105D		
Prepare Preliminary Site Investigation	Conduct a preliminary site investigation. To be completed within 90 days of receiving information that a hazardous release may have occurred.	WAC 173-340-310		
Prepare Initial Site Assessment	Provide sufficient sampling data and other information to confirm or rule out hazardous substance release.	WAC 173-340-320		
Prepare and Submit Notification of Dangerous Waste Activities - Permit Application	Conduct site sampling to determine subsurface hydrogeology, nature and extent of contamination, migration pathways, and exposure potential.	WAC 173-303		
Application Review	EPA and/or Department of Ecology reviews RCRA permit application. Department of Ecology must conduct an initial investigation of the release, including a site visit, within 90 days.			
Public Notice Issued	If permitting agency decides the application meets appropriate standards, the agency issues a draft permit and a public notice. The notice shall be mailed to persons who reside within the potentially affected vicinity of the proposed action. It should also be published in the newspaper of largest circulation in the city. Occurs for a minimum of 30 days after public notice issued. Public may comment on the draft permit decision.	RCW 70.105D; WAC 173-340-600(4)		
Notice of Public Hearing	Hold a hearing to facilitate public involvement and obtain comments on the draft permit decision.	WAC 173-340-600(5)		
Public Hearing	Permitting agency reconsiders the draft permit or the notice of intent to deny the permit - Issues a response to public comments, specifying any changes made to the draft permit.			
RCRA Site ID Number Issued by Department of Ecology	Final permit issued or denied.			

<b>COASTAL ZONE CONSISTENCY DETERMINATION</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Coastal Zone Consistency Determination	Applicants for federal permits/licenses are required to comply with the Washington Coastal Zone Management Program (WCZMP). Responsible Agency: Department of Ecology.	Section 6217 of the Coastal Zone Management Act of 1972; 16 USC 1451 et seq.; 15 CFR 923-930; and RCW 90.58		PE-D-31.02
Develop Federal Consistency Document (FCD) and submit Consistency Checklist.	Submitted to Federal Agency and Dept. of Ecology - a JARPA can be used to supply this information.	15 CFR 930.58(a); 930.39(b)		
Consult with Dept. of Ecology	If an action is located within WCZMP (and perhaps, the Shoreline Management Act (SMA)) jurisdiction and the action requires federal approval or uses federal funding, consult with the Dept. of Ecology or appropriate local agency to determine consistency.	15 CFR 930.34; WAC 173-27-060(a)	No later than 90 days prior to the start of the proposed activity.	
Public Notice Issued / Public Comment Period				
Notice of Inconsistency		16 USC 1455(c); 15 CFR 930.35(c)		
Mediation Request		15 CFR 930.125(a); 15 CFR 930.157		
Mediation Decision by WSDOT		15 CFR 930.35		
Appoint Hearing Officer		15 CFR 930.55		
Public Notice of Hearing		15 CFR 930.42 and 930.61		
Conduct Hearing		15 CFR 930.42 and 930.61		
Notice of Mediation Conference		15 CFR 930.42 and 930.61		
Federal Aid Not Granted		15 CFR 930.35		
Decision to Appeal		15 CFR 930.125		
File Notice of Appeal		15 CFR 930.125		
Submit Comments to Secretary		15 CFR 930.125		
Public Notice / Comment Period		15 CFR 930.42 and 930.61		

<b>HYDRAULIC PROJECT APPROVAL</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Hydraulic Project Approval	Hydraulic Project Approval (HPA) A permit required for projects that use, divert, obstruct, or change the natural flow or bed of any state waters (e.g. culvert work, realignment, bridge replacement). JARPA can be used.	RCW 77.55.100; WAC 220-110-030		PE-D-31.04
Prepare and Submit HPA application	Any of these documents constitutes application for an HPA: JARPA, hydraulic project application, forest practice application, or section 10 or 404 public notice.	WAC 220-110-030(3)		
Suspension of 45 Day Requirement	45-day requirement shall be suspended if After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project; The site is physically inaccessible for inspection; or The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.	RCW 77.55.100(2)(c)		
Permit Application - Approval/Denial	The department shall grant or deny approval of a standard permit. The period of forty-five calendar days may be extended, if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.	RCW 77.55.100(2)(a)	Within 45 calendar days of receipt of complete application	
Validity	The permittee must demonstrate substantial progress on construction of that portion of the project relating to the approval within two years of the date of issuance.	RCW 77.55.100(4)	Approval of standard permit is valid for up to 5 years from date of issuance.	
HPA Fish Enhancement Exemption		RCW 77.55.100; WAC 220-110		

<b>SECTION 106</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Section 106 of the National Historic Preservation Act of 1966 (NHPA)		16 USC 470 Sec.106; 36 CFR 800; RCW 43.51.750		
Initiate Section 106 Process		National Historic Preservation Act (NHPA) of 1966, Section 106 - 23 CFR 800.3; and RCW 36.70A.520		
Identify Historic Properties	Determine project area of potential effect (APE).	23 CFR 800.4; WAC 25-48-060(a-n)		
Evaluate Eligibility for NRHP Listing	If potential sites are found, evaluate the historical significance of the property/s) by applying NRHP criteria with SHPO/THPO/and tribes.	23 CFR 800.4( c)(1)		
Notify Consulting Parties	If SHPO, THPO objects within 30 days, consult with objecting party to resolve, or seek Council comment. If there is no objection from SHPO/THPO within 30 days process is complete.	36 CFR 800.4(d)(1)(iv)	SHPO/THPO has 30 days after notification to object or approve.	
Assess Adverse Effects	In consultation with SHPO/THPO/and tribes, apply criteria of Adverse Effect to each historic property identified within the APE.	23 CFR 800.5		
Determine Adverse Effect		Adverse Effect 800.5(e), 800.8(b); No Adverse Effect 800.5(d)		
Notify Consulting Parties of Finding		36 CFR 800.5(e)	If SHPO/THPO objects within 30 days, consult with objecting party to resolve, or seek Council comment pursuant to 36 CFR 800.5c(3)(2). If there is no objection from SHPO/THPO within 30 days, process is complete.	
Notify ACHP	Notify the ACHP is there is a finding of adverse effect.	36 CFR 800.6(a)(1)(I)		
Resolution of Adverse Effect	Initiate consultation to resolve adverse effects by providing all consulting parties with documentation for consultation. Development of MOA may take place.	36 CFR 800.11(e)		
Prepare MOA	If parties involved in consultation agree on resolution of 'adverse effect,' a MOA is prepared and executed by FHWA, SHPO/THPO, and the Council, and other parties invited as signatories or concurring parties.			
Submit MOA to ACHP	Provided ACHP has been notified of adverse effect, ACHP accepts the MOA for filing.	36 CFR 800.6		
Failure to Agree on Resolution	ACHP may develop formal comments rather than enter into an MOA. The comments are sent to the head of FHWA. The FHWA considers ACHP's comments and reports the decision to ACHP prior to initiating the proposed action.		Additional time should be factored in if the ACHP requires more information or a public meeting to develop the comments.	

<b>CLEAN WATER ACT SECTION 404/10</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Army Corps Section 404/10 Permit	An individual permit is usually required where there are potentially significant impacts to wetlands.	Clean Water Act Section 404; 33 USC 1344; 33 CFR 330.5 and 330.6; 33 CFR 322 and 403		PE-D-31.01
Prepare Application (JARPA)	If an individual permit is required, an application must be made to the USACE. Under most general permit conditions, a mitigation proposal must be included for the application to be complete.	Section 404 of the CWA		
Receipt of Application by USACE	The USACE receives and reviews the individual permit application to issue a Statement of Finding.			
Issue Public Notice of Application	USACE issues a public notice of availability of individual permit application.	33 USC 1344(e)(1)	Must be completed in no more than 15 days after Application has been prepared.	
Public Comment	The USACE will obtain comments from agencies and the public on the permit application.	23 CFR 772.11	Must be completed in no more than 30 days after notice of public availability issued.	
Public Hearing	A public hearing is not common but the public may request that the USACE conduct a hearing.			
USACE Permit Decision	The USACE assesses the permit application based on the comments received and its own evaluation. The USACE makes a decision whether or not to issue the individual permit and also prepares a 'Statement of Finding' document that is made public. Nationwide Permits (NWP) may apply. NWPs are general permits issued by USACE and are designed to regulate, with little or no permit review, certain activities deemed to have minimal impact on waters under USACE jurisdiction.	USACE Section 404 Permit Guidelines	If an individual permit is not issued, the agency will need to consider redefining the proposed action (or the portion effecting wetlands) or incorporating mitigation measures. The agency must restart the Part II process - at the step of their choice. If an individual permit is issued, proceed to EPA review.	
EPA Review	If a permit is issued, the EPA reviews the permit to determine if the proposed action would have an unacceptable adverse effect on: municipal water supplies, shellfish beds and fishery areas including spawning areas and breeding areas, wildlife, and recreation areas.	CWA Section 404(h)(3)	Review process normally is concluded within 60 days of receipt. Under Section 404(q), the decision may be delayed 30 to 60 days. Under Section 404(c), EPA may deny or restrict use of a site for placement of dredged or fill material and the USACE cannot issue a permit. If EPA does not reject, the proposed action may proceed. If EPA does reject, Federal funds may not be approved.	

<b>WATER QUALITY CERTIFICATION</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Section 401 Water Quality Certification	A federal permit/license for discharge into navigable waters. Certain Army Corp permits will require a section 401. Responsible Agency: Department of Ecology; and the Environmental Protection Agency (EPA) on federal and tribal land.	Section 401 of Water Pollution Control Act of 1977; CWA; WAC 173-201A-510; and RCW 90.48.160	<a href="http://www.epa.gov/waterscience/standards/laws.htm">www.epa.gov/waterscience/standards/laws.htm</a> and <a href="http://www.wsdot.wa.gov/environment/Programmatics/Section401.htm">www.wsdot.wa.gov/environment/Programmatics/Section401.htm</a>	PE-D-31.06
Complete JARPA and submit to USACE	Joint Aquatic Resources Permit Application (JARPA). USACE determines if the project qualifies for Nationwide Permit or an Individual Permit.			
USACE or Dept. of Ecology issue Public Notice of Application Receipt	Upon receiving a comprehensive application the State, interstate water pollution control agency, or EPA must issue a public notice to announce that an application for Section 401 Certification has been received.	WAC 173-225-030(1)(b)	Publication of notice occurs twice, once each on the same day of the week in two consecutive weeks, in a newspaper of general circulation in the county in which the activity described in the application is located, and in such other counties as deemed appropriate.	
USACE/Dept. of Ecology Determines Nationwide Permit or Individual Permit		WAC 173-225-030(1)(b); WAC 173-225-030(1)(b)	For individual permit, minimum 20 day public notice.	
Public Comment	Any comments made by the public or other interested parties are taken into account when making the decision to issue a certification.	WAC 173-225-030(2)		
401 Certification Decision	The application and Section 401 certification must be forwarded to the Administrator of the EPA for review. If the Administrator determines that there may be an impact on the waters of another State, the Administrator must notify the other State, the Federal license or permitting agency, and the State DOT. Section 401 Certification is issued if the discharge will comply with the provisions of the CWA (Sections 301, 302, 303, 306 and 307) that relate to effluent discharge limitations, water quality standards, national standards for the control of pollutants, and toxic pollutants.		Occurs for a minimum of 30 days after Notice of Decision to Issue Section 401 Certification.	

<b>WATER QUALITY CERTIFICATION (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Request for Public Hearing	If the department determines there is sufficient public interest in any application, a public hearing for the submission of oral views as well as written views shall be held.	WAC 173-225-030(3)	Occurs within 60 days of Notice of Decision to Issue Section 401 Certification.	
Public Hearing	If requested by another State whose waters may be impacted, a public hearing must be held in relation to the Section 401 Certification and the potential for a license or	WAC 173-225-030		
Section 401 Certification Issued or Denied	General permits have a duration of 5 years. The permittee is required to submit a renewal application to the Dept. of Ecology 180 days prior to the permit expiration date in order to receive continued permit coverage under the revised re-issued general permit.		Maximum of 180 days to receive Letter of Verification from Public Notice - Maximum of 360 days from application to decision for Individual Permit.	

<b>NPDES</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
NPDES Construction Stormwater Permit	Required by all soil disturbing activities where construction activity will disturb one or more acres and will result in discharge of stormwater to a receiving water, and/or storm drains that discharge to a receiving water. Also required if detention facilities will be constructed to retain stormwater on site.	Clean Water Act of 1972, Section 402; 33 USC 1342; 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226		
NPDES Municipal Stormwater Permit	Required if construction activities and/or long-term operation and maintenance of its facilities result in stormwater discharge to a municipal separate storm sewer system.	Clean Water Act of 1972, Section 402; 33 USC 1342; 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226		
NPDES Sand and Gravel Permit (General and Individual)	Required by activities involving the following SIC codes: 1442 Construction Sand and Gravel, 29511 Asphalt Paving Mixtures and Blocks, 3273 Ready-Mixed Concrete.	Clean Water Act of 1972, Section 402; 33 USC 1342; 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226		
NPDES Industrial Stormwater Permit (General and Individual)	Required if stormwater from WSDOT's facility does not discharge to ground and/or to a combined storm/sanitary sewer.	Clean Water Act of 1972, Section 402; 33 USC 1342; 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226		
Other NPDES Permits (Programmatic)	Washing and painting of bridges and ferry terminals, nuisance aquatic plant and algae control, noxious aquatic plant control, aquatic mosquito control.	Clean Water Act of 1972 Section 402; 33 USC 1342; 40 CFR Parts 122, 123, and 124 Subchapter D; WAC 173-226		
State Waste Discharge Permit	In order to improve water quality by controlling toxicants in wastewater, the department of ecology shall in issuing and renewing state and federal wastewater discharge permits review the applicant's operations and incorporate permit conditions which require all known, available, and reasonable methods to control toxicants in the applicant's wastewater.	RCW 90.48; WAC 173-226		

<b>SHORELINE SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE PERMITS</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Shoreline Substantial Development, Conditional Use, and Variance Permits		RCW 90.58; WAC 173-27; City and County Ordinances		
Shoreline Permit Exemption	Development or construction valued at \$2500 or more interfering with shorelines or water use; lakes and reservoirs over 20 acres, streams over 20 cfs, lands 200 ft. inland from Ordinary High Water mark, marshes, swamps, bogs and deltas. Responsible Agency: Department of Ecology, Cities and Counties.		JARPA can be used for Shoreline Management Permit	PE-D-31.10
Mediation Request	The Governor or Dept. of Ecology requests in writing that the Secretary of Commerce mediate the disagreement.	15 CFR 930.125(a); 15 CFR 930.157	To obtain secretarial review of a State agency objection, a notice of appeal shall be filed with the Secretary within 30 days of receipt of objection.	
Mediation Decision by Disagreeing Agency	The disagreeing agency notifies the Secretary of Commerce whether or not it wishes to mediate.	15 CFR 930.130	Must be completed in no more than 15 after mediation request by State.	
Mediation Decision by WSDOT	The State DOT notifies the Secretary of Commerce whether or not it wishes to mediate. If the decision is made in the previous step to mediate, process to Appoint Hearing Officer. If the decision is made at this point not to mediate, Federal Aid will not be granted. Proceed to Decision to Appeal.	15 CFR 930.35		
Appoint Hearing Officer	Secretary of Commerce Appoints a hearing officer.	15 CFR 930.55		
Public Notice of Hearing	Provide public notice of the mediation hearing and provide public access to the information related to the disagreement.	15 CFR 930.42 and 930.61	Occurs for a minimum of 30 days after mediation decision by DOT.	
Conduct Hearing	The Hearing Officer conducts an informal mediation hearing and submits transcripts of the proceedings to the Secretary of Commerce.	15 CFR 930.42 and 930.61		
Notice of Mediation Conference	Publish notice of mediation conference.	15 CFR 930.42 and 930.61	Occurs for a minimum of 10 days after hearing conducted.	

<b>SHORELINE SUBSTANTIAL DEVELOPMENT, CONDITIONAL USE, AND VARIANCE PERMITS (continued)</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Mediation Conference	Secretary of Commerce conducts the mediation conference.		If mediation terminates or does not result in agreement, proceed to Decision to Appeal if there is to be an appeal.	
Decision to Appeal	Appeal to Secretary of Commerce if mediation does not resolve inconsistency.	15 CFR 930.125	If the appeal is to take place, proceed to Informal Discussions. If the Secretary of Commerce is to approve on own initiative, proceed with proposed action.	PE-D-31.10
Informal Discussions	The Secretary of Commerce holds informal discussions in an attempt to reach agreement.		If agreement is not reached during the informal discussion, proceed to Notice of Appeal Filed. If agreement is reached during the informal discussion, proceed with proposed action.	
Notice of Appeal Filed	The Secretary of Commerce files a notice of appeal.			
Submit Comments to Secretary	The DOT submits comments to the Secretary of Commerce.		Occurs for a minimum of 30 days after Notice of Appeal Filed.	
Public Notice	Provide public notice of the appeal.	15 CFR 930.42 and 930.61		
Public Comment Period	Allow 30 days for public comments.	15 CFR 930.42 and 930.61	Occurs for a minimum of 30 days after Public Notice.	
Secretary Decision	The Secretary of Commerce determines whether or not the proposed action may proceed.		Occurs within 90 days of submitting comments to Secretary.	
Public Notice of Decision	The Secretary of Commerce's consistency determination is published.		If the Secretary makes a decision that the proposed action is consistent, proceed with proposed action.	

<b>ARCHAEOLOGICAL RESOURCES</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Archaeological Resources Protection Permit	Excavation or removal of archaeological resources from tribal or federal land.	43 CFR 7.6 - 7.11		
Apply for Permit		43 CFR 7.5(a)		
Additional Information Required	Additional information may be required.	43 CFR 7.6(6)(c)		
Notice to Indian Tribe		43 CFR 7.7(a)	Sent from Federal Land Manager	
Obtain Written Consent from Indian Landowner		43 CFR 7.8(5)		
Approve/Deny Permit		43 CFR 7.8 and 7.9		
Permit Denied - Appeal Possible		43 CFR 7.11		

<b>AIR QUALITY PERMIT</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Air Quality Permit	Permit allows temporary air pollution above allowed levels. Includes land clearing	RCW 70.94		
Investigate Ambient Air Quality	Investigate meteorological conditions and ambient air quality conditions in the region. Determine non-attainment or maintenance status for the area.	40 CFR 51; 40 CFR 93; 40 CFR Part 51; RCW 70.94.037; WAC 173-420-070	Each new transportation plan must be demonstrated to conform before the transportation plan is approved by the MPO or accepted by DOT.	
Review Interagency Consultation	Review WSDOT and local protocols or procedures to address project-level air quality impacts.	40 CFR 93.105; 40 CFR 93.112		
Ensure Project Part of Regional Emissions Analysis	Projects should be part of the currently conforming transportation plan and TIP if within MPO planning area.	RCW 70.94.037; WAC 173-420; 40 CFR 93.193		
Hot-Spot Analysis	If project is within CO or PM-10 non-attainment area, complete required hot-spot analysis following conformity regulations, and WA protocols.	40 CFR 93.101 -See 40 CFR 93.116 and 93.123 for analysis procedures.		
Air Quality Analysis and Report	With the exception of 'exempt' actions, all actions must be reviewed for potential impacts to air quality. All transportation actions requesting federal funding and all regionally significant projects must be analyzed for regional air quality emissions. 'Exempt' actions, listed in Federal and state regulations, are mostly actions that maintain existing transportation facilities, or improve mass transit or air quality, and are considered to have a neutral impact on air quality. Some 'exempt' actions may require an air quality assessment to be performed if consultation with the EPA and other applicable agencies determine that the project has potentially adverse air emission impacts.	Clean Air Act of 1970, CAA Amendments of 1990; Washington Clean Air Act RCW 70.94		PE-D-06.20.01
Submit Permit Application				
Publish Public Notice	Upon request by any person regarding a specific Federal action, a Federal agency must make available for review its draft conformity determination under Sec. 93.158 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.	40 CFR 93.156; RCW 70.94.161(7)		
Obtain Written Commitments - Written Response to Comments	Obtain written commitments from project sponsors to implement applicable control measures in SIP and any necessary mitigation measures.	40 CFR 93.160(b); RCW 70.94	Prior to determining that a Federal action is in conformity.	

<b>COAST GUARD BRIDGE PERMIT</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Coast Guard Bridge Permit	Permission from the Coast Guard on anything that obstructs vessel passage in navigable waters.	General Bridge Act of 1946; Rivers and Harbors Act of 1899 Section 9	<a href="http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=106">http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=106</a>	PE-D-31.11
Submit Completed JARPA	Submit bridge permit application to the USCG. 23 USC 144(h): Section 9 shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters (1) which are not used and are not susceptible to use in their natural condition or by any reasonable improvement as a means to transport interstate or foreign commerce, and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing and other small vessels less than 21 feet in length.		Application for Section 9 Permit during Advance Detail Design.	
USCG Requests Additional Information	The USCG may determine that more information is required to support the bridge permit application. Early coordination in accordance with the USCG/FHWA MOU on Implementing NEPA (N 6640.22) aims to minimize USCG requests for additional environmental documentation after the bridge permit application has been submitted.	23 CFR 650.805(e)	Since construction in waters exempt from a USCG permit may be subject to other USCG authorizations such as approval of navigation lights and signals and timely notice to local mariners of waterway changes, the USCG should be notified whenever the proposed action may substantially affect local navigation.	
USCG Issues Public Notice	The USCG issues a public notice of the bridge permit application and requests comments on the navigational aspects of the proposed action. The public notice is not to request comments on the supporting environmental documentation.	USCG/FHWA Procedures for Handling Projects which Require a USCG Bridge Permit 4(b)		
Public Comment	The public is able to comment on the bridge permit application.	23 CFR 771		
Public Hearing	Depending on the impact of the proposed action on navigation, a public hearing may also be necessary.	23 CFR 771	Consultation with USCG during construction to modify or renew Section 9 permit(s) as needed.	

<b>SURFACE MINING PERMIT</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Surface Mining Reclamation Permit	Permit with approved reclamation plan required for surface mining (pit and quarry sites) if more than 3 acres are disturbed at one time or pit walls are more than 30 feet high and steeper than 1:1.	RCW 78.44		
Submit Permit Application and Application Fee		RCW 78.44.081		
Additional Information Required.	Additional information may need to be provided.	RCW 78.44.085(6)		
Permit Issued		RCW 78.44.083		
Permit Not Issued		RCW 78.44.083		
Pay Annual Permit Fee		RCW 78.44.085		

<b>PUBLIC WATER SYSTEM APPROVAL</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional</b>	<b>MDL#</b>
Public Water System Approval		RCW 43.20A; WAC 246-290; WAC 246-291; WAC 246-294; 42 USC Chapter 6A; 40 CFR 141 and 143		
Review Comprehensive Water System Plan		WAC 246-290-035		
Review Detailed Construction Documents		WAC 246-290-120 (3)		
Submit Application and Fee		WAC 246-294-030(1)		

<b>FARMLAND CONVERSION</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Farmland Conversion		7 USC 4201; Farmlands Protection Policy Act - 7 CFR 650		
Determine Farmland Conversion	Determine acres of farmland to be converted, both directly and indirectly.	7 CFR 658		
Complete Parts I & III	Complete Parts I & III Form NRCS-CPA-106 (for corridor type project).			
Submit Form AD-1006	Submit Form NRCS-CPA-106, along with a description of the proposed action, to the NRCS local office. Useful to include maps.			
NRCS Completes II, IV & V	NRCS office will determine within 45 days if the site of the proposed action contains prime farmland, unique farmland, or land of statewide or local importance. The NRCS will then complete Parts II, IV, and V of Form NRCS-CPA-106 in cases where farmland or land of importance will be converted to non-agricultural use. The NRCS will then return form AD-1006.	7 CFR 658.4(a)	Occurs for a minimum of 45 calendar days after Form AD-1006 submitted. If NRCS does not respond within 45 days, the project may proceed without NRCS determination.	
Complete Parts VI & VII of AD-1006	Do not complete Part VI if a local site assessments is used. Use corridor type assessment criteria.	7 CFR 658.5(b) defines Part VI criteria.		
Farmland Conversion Consistency Determination	Make a determination as to whether or not the proposed conversion is consistent with the Farmland Protection Policy Act and FHWA's internal policies on farmlands.		If the Land Evaluation and Site Assessment score of Form AD-1006 is 160 points or greater, proceed to Avoid/Minimize Impacts. If value is less than 160 points, proceed to last step, Incorporate Results.	

<b>FLOODPLAIN DEVELOPMENT PERMIT</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Floodplain Development Permit	Local governments participating in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA) are required to review proposed development projects to determine if they are in identified floodplains as shown on the FEMA maps. If a project is located in a mapped 100-year floodplain (A or V zone), the local government must require that a permit be obtained prior to development. A permit is required for any structure or activity that may adversely affect the flood regime of a stream within the flood zone	44 CFR 60; RCW 86.16; WAC 173-158; City and County Ordinances	Permit processing time varies by jurisdiction and project complexity. Permit duration usually lasts for the duration of the project. <a href="http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=47">http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=47</a>	PE-D-31.03
Identify Floodplain	Identify the geographic area of the base (100-year) floodplain.	WAC 173-201A-410	It is recommended that WSDOT review local flood plans during the project development phase.	
Make Floodplain Revision	Determine if a revision to the area of the floodplain may be appropriate and if so, consult with FEMA and State or local agencies to determine if it would be acceptable to them to make the revision.	WAC 173-158-064		
Permit Approval/Denial	If the preferred alternative constitutes a significant encroachment or significant incompatible floodplain development, the project may only be approved if the responsible official makes a written finding that the encroachment is the only practicable alternative.	WAC 173-158		

<b>WATER RIGHT PERMIT</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Water Right Permit	In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting and using any surface water. Surface water is any water appearing upon the surface of the ground, such as water from a river, stream, spring, or lake.	RCW 18.104; 43.27A; 90.03; 90.14; 90.16; 90.44; and 90.54; WAC 173-100; 173-136; 173-150; 173-154; 173-166; 173-500; and 173-590; WAC 508-12	A ground water right permit is not needed if daily ground water use from a well or wells is 5,000 gallons a day or less for any of the following combinations of uses: <ul style="list-style-type: none"> <li>• Providing drinking and cleaning water for livestock (stock-watering).</li> <li>• Single or group domestic purposes such as drinking, cooking and washing.</li> <li>• Industrial purposes.</li> <li>• Watering a lawn or noncommercial garden that is a half acre or less in size.</li> </ul>	

<b>OTHERS</b>				
<b>Requirement</b>	<b>Description</b>	<b>Authority</b>	<b>Additional Information</b>	<b>MDL#</b>
Forest Practices Permit	The application is required when project activities affect forest lands, defined as land capable of supporting a merchantable stand of timber and is not being actively used for a use incompatible with timber growing.	RCW 76.09; WAC 222	<a href="http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=34">http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=34</a>	PE-D-31.12
Aquatic Lands Acquisition & Permit Approval	Any county or city or the United States of America or any state agency desiring to locate, establish, and construct a road or street over and across any aquatic lands, or wharf over any tide or shore lands, belonging to the state, shall by resolution of the legislative body of such county, or city council or other governing body of such city, or proper agency of the United States of America or state agency, cause to be filed with the department a petition for a right of way for such road or street or wharf in accordance with the provisions of RCW 79.36.440.	RCW 79.90; WAC 332-30; RCW 47.12.026	<a href="http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=31">http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=31</a>	PE-D-31.13
Critical Area Ordinance Permit	Local approval or permits may be required for projects impacting areas defined as "critical" by counties and cities under the Growth Management Act (GMA), including wetlands, aquifer recharge areas, wellhead protections areas, frequently flooded areas, geographically hazardous areas, fish and wildlife habitat, and conservation areas. Responsible Agency: Counties and Cities.	Washington State Growth Management Act (GMA); RCW 36.70A; RCW 90.58; County Ordinances		PE-D-31.08
Clearing, Grading, and Building Permits	Clearing and grading of land for development with impacts outside WSDOT right of way; includes connecting streets, frontage roads, etc. Construction of any building for human habitation; includes maintenance facilities.	RCW 36.21.080; RCW 36.70; RCW 36.70A; RCW 19.27; WAC 51-50; City and County Ordinances		
Land Use Permit	Required land use permit examples are conditional use, unclassified use permit, or variance.	City and County Ordinances		
Reservoir Permit	Reservoir permit is required when any dam or dike is used to store water to a depth of 10 feet or more at its deepest point, or retains 10 or more acre-feet of water. Also applies to reservoir adjacent to a stream channel, wetland or wildlife mitigation sites where an impoundment of water is proposed.	RCW 90.03.370; WAC 173-175; WAC 508-12		
Reservoir Permit Application	Applications for permit to appropriate surface water shall be made on forms provided by the department of ecology.	WAC 508-12-100		
Noise Variance	Construction and maintenance activities during nighttime hours may require a variance from local noise ordinances. Daytime noise from construction is usually exempt. Responsible Agency: Counties and Cities.	WAC 173-60	Written request 4 to 6 months prior to advertisement of a project before a noise variance request can be submitted.	PE-D-31.09
Dam Construction Permit	Constructing, modifying, or repairing a dam that captures and stores at least 10 acre-feet of water or liquid waste; e.g. a highway project adjacent to a reservoir requiring modification of the embankment.	RCW 90.03.350; WAC 173-175	<a href="http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=14">http://apps.ecy.wa.gov/permithandbook/permitdetail.asp?id=14</a>	

## APPENDIX C: LIST OF INTERVIEWEES

The WSDOT staff members listed below assisted in validating the requirements and flowcharts. Their input was invaluable in completing this project.

Dianna Ayers	Assistant Director, Real Estate Services
Shirley Hughes	Assistant Director, Real Estate Services
Gerry Gallinger	Director, Real Estate Services
Jugesh Kapur	Bridge Design Engineer
Patty Lynch	Compliance Branch Manager
Terry Meara	Assistant Director, Real Estate Services
Carol Lee Roalkvam	Regulatory Compliance Manager
Cindy Tremblay	Assistant Director, Real Estate Services
Tom Swafford	State Utilities Engineer
Paul Wagner	Biology Branch Manager
Galen Wright	Assistant Director, Real Estate Services