

Appendix D

Environmental Laws and Regulations

Summary of Environmental Laws and Regulations

The following table summarizes key federal, state, and local laws and regulations that were identified in chapter 5 as potentially applicable to the SR 302 Improvement Project. As the alternatives are narrowed and more focused analyses completed, additional applicable laws and regulations are likely to be identified.

Regulation	Description
FEDERAL	
Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d)	This federal act seeks to criminalize the taking, possession of, or commerce in bald and golden eagle species. Taking includes pursuing, shooting, poisoning, wounding, killing, capturing, trapping, collecting, molesting or disturbing of these species.
Clean Water Act (33 U.S.C)	<p>The Clean Water Act is the major piece of federal legislation governing water pollution by regulating the discharge of pollutants into the waters of the United States. It also authorizes the U.S. Environmental Protection Agency to establish pollution control programs and set water quality standards.</p> <p>Section 303(d) Category 5 (33 U.S.C. 1313) sets water quality standards for U.S. waters. It requires states to compile a list of "impaired" waters every two years based on water quality testing and prepare a plan to correct the problem.</p> <p>Section 401 (33 U.S.C. 1341) requires the Washington Department of Ecology to issue a permit for the construction and/or operation of a project indicating that it is not expected to violate state water quality standards or other aquatic resource protection requirements.</p> <p>Section 404 (33 U.S.C. 1344) requires the obtainment of a permit from the U.S. Army Corps of Engineers prior to any project that would discharge dredged or fill materials into all waters of the United States.</p>
Coastal Zone Management Act (16 U.S.C. 1451-1465)	The Coastal Zone Management Act required each state with borders on coastal waters to create their own coastal zone management plan.
Department of Transportation Act Section 4(f) (49 U.S.C. 1653f)	This section directs the U.S. Department of Transportation to work cooperatively with other federal agencies and States to protect and preserve public lands, wildlife refuges, and historic sites. A transportation project may only use these lands if there is no prudent and feasible alternative and mitigation efforts are employed to limit the effect.
Endangered Species Act (16 U.S.C. 1531-1544)	The Endangered Species Act conserves the ecosystems on which endangered and threatened fish, wildlife and plant species depend. It established a list of endangered and threatened species as well as prohibits the trade of endangered species.
Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801-1891)	This act provides for the conservation and management of domestic fisheries through habitat protection and promotion of sound harvesting practices. It defines essential fish habitat consisting of waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.
Migratory Bird Treaty Act (16 USC 703-712)	This legislation implements treaties with various nations to protect migratory bird species. It prohibits the taking of such species or their feathers, eggs, nests, and products. All project actions within segments containing such a bird would be governed by this regulation.

Regulation	Description
National Historic Preservation Act of 1966 Section 106 (16 U.S.C. 470f)	The Act established the National Register of Historic Places and the list of National Historic Landmarks. Section 106, an amendment to the original law, created a review process for determining impacts of new projects paid for with federal funds.
National Pollutant Discharge Elimination System construction permit (33 U.S.C. 1342)	This code establishes the requirement for a permit for the discharge of any pollutant. It allows state governments to have their own permit programs for discharges into navigable waters under their jurisdiction approved by the federal government.
Presidential Executive Order 11988 – Floodplain Management (42 FR 26951, 3 CFR, 1977 Comp., p. 117)	Presidential Executive Order 11988, was issued in 1977. It states that federal agencies must, to the extent possible, avoid adverse impacts to floodplains or avoid supporting floodplain development when there is a practicable alternative. The Order seeks to reduce the risk of flood loss, protect human safety, and preserve the value of floodplains.
River Harbors Act of 1899 Section 10 (33 U.S.C. 403)	The River Harbors Act of 1899 is the oldest environmental law in the United States. Section 9 of this Act requires Congressional approval prior to a bridge, dam, dyke, or causeway over navigable waters in the U.S. Section 10 requires the approval of the U.S. Army Corps of Engineers before excavating or filling navigable waters. It also requires Congressional approval prior to building wharfs, piers, or other structures.
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655)	The Uniform Act provides for important protections and assistance for individuals affected by the acquisition, rehabilitation, or demolition of real property due to Federal projects or projects funded by federal funds. It ensures that these people are treated fairly and equitably and receive moving assistance.
Regulations for the Advisory Council on Historic Preservation (36 CFR 800.16d)	These regulations require the Area of Potential Effects (APE) of each project alternative to be defined. The APE is “geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”
STATE	
Bald Eagle Protection Act (RCW 77.12.655)	Passed by the Washington State legislature in 1984, this law requires buffer zones to be defined around bald eagle nest and roost sites.
Bald Eagle Protection Rules from the State Wildlife Commission (WAC 232-12-292)	These rules seek to protect Bald Eagle habitat through habitat management plans.
Clean Air Act (RCW 70.94); General Regulations for Air Pollution Sources (WAC 173-400)	Dust emissions can negatively affect human health, safety, wildlife, vegetation, and water quality. These codes require owners and operators of fugitive dust sources to follow practices to prevent dust from becoming airborne and minimizing emissions. In addition to preventative techniques, chemical dust suppressants may be used.
Fish Passage Law (RCW 77.57.030)	This law requires the construction of fishways across obstructions such as road crossings in a stream. The guidelines are established by WDFW and be durable and efficient.
Flood Control Management Act (RCW 89)	This act is the primary statutory authority for the regulation of state flood control jurisdictions, including flood control districts, counties, and zone districts. It also regulates flood control management, flood control contributions, cooperation with federal agencies on flood control, and state participation in flood control maintenance.

Regulation	Description
Growth Management Act (RCW 36.70A)	The State GMA establishes goals to guide planning in the larger, faster growing counties and cities within those counties. It also provides for a regional transportation planning program to be administered by WSDOT.
Model Toxics Control Act (WAC 173-340)	
Shoreline Management Act (RCW 90.58, WAC 173-18, 173-20)	<p>The state Shoreline Management Act regulates development of shorelines through the creation of shoreline master programs at the local government level. Its jurisdiction includes the Pacific Ocean and Puget Sound shorelines, as well as other water bodies above a certain size.</p> <p>Shorelines of statewide significance are those for which there is special interest in preserving the natural characteristics and in encouraging and increasing public access. They are established through the Shoreline Management Act.</p>
Shorelines of statewide significance (Defined in Shoreline Management Act of 1971 [RCW 90.58.030])	Shorelines of statewide significance are those for which there is special interest in preserving the natural characteristics and in encouraging and increasing public access.
WSDOT's 10 dBA Substantial Traffic Noise Increase (WSDOT <i>Traffic Noise Analysis and Abatement Policy and Procedures</i>)	A traffic noise increase of at least 10 dBA during the peak-hour period (measured as peak-hour Leq for the design year minus peak-hour Leq for existing conditions).
WSDOT's 66 dBA Noise Abatement Criteria (NAC) (WSDOT <i>Traffic Noise Analysis and Abatement Policy and Procedures</i>)	The traffic noise level (measured in peak-hourly Leq) above which WSDOT is required to consider traffic noise abatement. The NAC for residential areas is 66 dBA (peak-hour Leq) and the NAC for commercial buildings with outdoor use areas is 71 dBA (peak-hour Leq). The standard is based on federal regulations for highway traffic and construction noise (23 CFR 772).
LOCAL	
County Comprehensive Plans (Pierce County, Kitsap County, Mason County)	Each county creates a plan, as required under the State GMA, guiding all land use and development issues for an approximately 25 year time horizon. It provides policies for dealing with anticipated growth within county boundaries through services such as transportation and other infrastructure.
County Flood Codes (Kitsap County Code Title 15, Mason County Flood Damage Prevention ordinance #81-07 & Mason County Code Chapter 14.22)	These codes seek to protect public health, safety, and general welfare from the effects of flooding. It also provides guidelines for reducing public and private losses due to flooding.
County Noise Ordinances (Kitsap County Code Chapter 10.28, Mason County Code Chapter 9.36, Pierce County Code Chapters 8.72 & 8.76)	These ordinances create standards for allowable noise levels from transportation and other projects constructed and operating within county boundaries.
County Shoreline designation codes (Kitsap County Code Title 22, Mason County Code Title 7, Pierce County Code Title 20)	The Kitsap County Shoreline Management Areas are designated areas of shoreline protection. Permits are required to prevent the inherent harm (including water quality impacts) in an uncoordinated and piecemeal development of the state's shorelines. Each county also has its own system to designate shorelines by degree of human impact and to regulate use by classification.

Regulation	Description
Critical Areas Ordinance (Kitsap County Code Title 19, Mason County Code Chapter 8.52, Pierce County Code Title 18E)	These laws protect locally designated critical/sensitive areas, including geological hazards, shorelines, wetlands, floodplains, critical aquifer recharge areas, wetlands, as well as fish and wildlife conservation areas. Unless the local laws conflict with state law, WSDOT projects must be consistent with the requirements of local regulations.