

- 210.01 General
- 210.02 Environmental Preservation and Protection
- 210.03 Visual Quality and Scenic Enhancement
- 210.04 Accessibility
- 210.05 Funding and Planning

210.01 General

Federal legislative acts and policies govern many roadside activities. (See the *Design Manual*, Chapter 220, for documentation requirements.) The *Environmental Manual* contains extensive references to laws and directives applicable to the environment. FHWA's website also contains references to environmental regulations: www.fhwa.dot.gov/environment/env_sum.cfm

Following is a brief summary of the major acts and policies affecting roadsides.

210.02 Environmental Preservation and Protection

210.02(1) *National Environmental Policy Act (NEPA), 42 USC 4321 (1969)*

Established to ensure consideration of environmental factors through a systematic interdisciplinary approach before committing the department and FHWA to a course of action.

Declares that it is the "continuous responsibility" of the federal government to "use all practicable means" to "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings."

210.02(2) *Clean Water Act, 33 USC 1251 et seq.*

The Water Pollution Control Act, better known as the Clean Water Act (CWA), was established to restore and maintain the chemical, physical, and biological integrity of the nation's water through the prevention, reduction, and elimination of pollution. [Section 404](#) addresses discharge of dredge and fill in all waters of the United States, including wetlands, and is enforced by the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency (EPA).

The CWA provides for comprehensive federal regulation of all sources of water pollution. It prohibits the discharge of pollutants from non-permitted sources. The CWA authorizes the EPA to administer or delegate water quality regulations covered under the act. In Washington, the EPA has delegated administrative authority of the CWA to the Washington State Department of Ecology (Ecology) except on tribal and federal lands.

To promote compliance with state surface water quality standards, Ecology issues:

- CWA Section 401 certificates of water quality compliance for each project requiring a CWA Section 404 permit.
- Administrative orders for projects not requiring Section 404 permits.

- National Pollutant Discharge Elimination System (NPDES) Construction individual and general permits.
- NPDES Municipal Permits.

210.02(3) Clean Air Act, 42 USC 7401 et seq.

Established to protect and enhance air quality and to assist state and local governments with air pollution prevention programs.

210.02(4) Endangered Species Act of 1973 as amended, 16 USC 1531-1541

Established to conserve species of fish, wildlife, and plants facing extinction.

210.02(5) Rivers and Harbors Act of 1899, 33 USC 410 et seq.

Protects navigable waters of the United States. It is enforced by the U.S. Army Corps of Engineers.

210.02(6) Noise Control Act of 1972, 42 USC 4901 et seq.

Established to promote an environment free from detrimental noise that jeopardizes the public's health and welfare.

210.02(7) National Forest Management Act (NFMA), 16 USC 1604 (g)(3)(B)

Requires the Secretary of Agriculture to assess forest lands, develop a management program based on multiple-use, sustained-yield principles, and implement a resource management plan for each unit of the National Forest System. The NFMA applies directly to lands administered by the United States Forest Service (USFS), but also provides direction for Bureau of Land Management (BLM) land management plans. The BLM and USFS have integrated National Environmental Policy Act requirements with their land management regulations.

The USFS has developed forest-specific "forest plans" that identify "species of concern" found within each forest.

WSDOT projects that involve federal forest lands must comply with regulations under the NFMA and the Northwest Forest Plan (*Environmental Manual*, Chapter 436).

210.02(8) Preservation of the Nation's Wetlands, EO 11990

Provides policy and implementing procedures that require all agencies to plan, construct, and operate to ensure protection, preservation, and enhancement of the nation's wetlands to the fullest extent practicable.

210.02(9) Prevention of Invasive Species, EO 13112, February 1999

Directs federal agencies to expand and coordinate their efforts to combat the introduction and spread of plants and animals not native to the United States. FHWA has developed guidelines that provide a framework for preventing the introduction of and controlling the spread of invasive plant species on highway rights of way.

210.02(10) Executive Order (EO) 13423 – Strengthening Federal Environmental, Energy, and Transportation Management

Signed by President Bush on January 24, 2007, [EO 13423](#) instructs federal agencies to conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically, and fiscally sound, integrated, continuously improving, efficient, and sustainable manner.

210.02(11) Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance

Signed by President Obama on October 5, 2009, [EO 13514](#) expands on the energy reduction and environmental performance requirements for federal agencies identified in [EO 13423](#). The goal of this EO is to establish an integrated strategy toward sustainability in the federal government and to make reduction of greenhouse gas emissions a priority for federal agencies.

210.02(12) Presidential Memorandum on Environmentally Beneficial Landscaping, FRL-5054-1 (1994)

Directs federal agencies to lead the country toward more environmentally and economically beneficial landscape practices, including:

- Use of regionally native plants.
- Construction with minimal impact to habitat.
- Reduced use of fertilizers, pesticides, and other chemicals.
- Use of water-efficient and runoff-reduction practices.
- Use of demonstration projects employing these practices.

Pertains to all highway programs using federal funds and provides for the development of implementation guidance.

210.02(13) US DOT Policy Statement on Climate Change Adaptation, June 2011

Based on [EO 13514](#), this policy statement directs that USDOT “shall integrate consideration of climate change impacts and adaptation into the planning, operations, policies, and programs of DOT in order to ensure that taxpayer resources are invested wisely and that transportation infrastructure, services and operations remain effective in current and future climate conditions.”

The policy notes that all modal administrations within the agency have the responsibility to consider the impacts of climate change on their current systems and future investments:

🔗 www.fhwa.dot.gov/environment/climate_change/adaptation/policy_and_guidance/usdot.cfm

210.02(14) Sustainable Highways Program, FHWA

Supports programs and activities conducted across the country to facilitate balanced decision making among “environmental, economic, and social values—the triple bottom line of sustainability.” To read more about the Sustainable Highways Program, visit:

🔗 www.sustainablehighways.dot.gov/

210.03 Visual Quality and Scenic Enhancement

210.03(1) *Highway Beautification Act (HBA) of 1965, 23 CFR 750*

Establishes provisions and controls to protect the public investment, promote safety and recreation, and preserve natural beauty along federal and primary highway system roadsides, including:

- Control of outdoor advertising signs.
- Authorization for information centers at safety rest areas.
- Control of junkyards.

Allocated of 3% of federal-aid funds that were apportioned to states for landscape and roadside development and for acquisition of interest in, and improvement of, strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the highways.

210.03(2) *Control of Outdoor Advertising, 23 USC 131*

Congress finds outdoor advertising signs should be controlled in order to promote the safety and recreational value of public travel and preservation of natural beauty.

210.03(3) *Junkyard Control and Acquisition, 23 CFR 751 and 23 USC 136*

Congress finds junkyards should be controlled to promote the safety and recreational value of public travel and preservation of natural beauty.

210.03(4) *Landscaping and Scenic Enhancement, 23 USC 319*

Provides for the acquisition and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty to federal-aid highways.

Requires the planting of native wildflower seeds or seedlings as part of any Federal-aid Highway landscaping project. At least ¼ of one percent of the funds expended for landscaping projects shall be used for these plantings. WSDOT uses native woody flowering species and flowering forbs to help meet this goal.

210.03(5) *Landscape and Roadside Development, 23 CFR 752*

“Highway esthetics is a most important consideration in the Federal-aid highway program. Highways must not only blend with our natural, social, and cultural environment, but also provide pleasure and satisfaction in their use.... The development of the roadside to include landscape development, safety rest areas, and the preservation of valuable adjacent scenic lands is a necessary component of highway development. Planning and development of the roadside should be concurrent with or closely follow that of the highway.”

210.03(6) *FHWA Scenic Enhancement Initiatives Memorandum, HRW-12 (1990)*

Rescinds a 1977 memorandum permitting selective clearing of right of way vegetation to improve visibility of outdoor advertising structures.

Encourages states to retain excess lands that could be used to restore, preserve, or enhance the scenic beauty and quality of the highway environment, including scenic vistas, wetlands, and preservation of wildlife habitat.

210.04 Accessibility

210.04(1) *Americans with Disabilities Act of 1990*

Requires all services, programs, and activities, when viewed in their entirety, to be readily accessible to, and usable by, people with disabilities: www.ada.gov

210.05 Funding and Planning

210.05(1) [Fixing American's Surface Transportation Act \(FAST Act\)](#)

On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation Act, or "FAST Act." It is the first law enacted in over ten years that provides long-term funding certainty for surface transportation, meaning States and local governments can move forward with critical transportation projects, like new highways and transit lines, with the confidence that they will have a Federal partner over the long term.

210.05(2) *Federal Highway Administration Strategic Plan*

The vision for this strategic plan is to create the best transportation system in the world by creating the safest, most efficient, and most effective highway and intermodal transportation system for the American people. FHWA's strategic goal for system performance is that the nation's highway system provides safe, reliable, effective, and sustainable mobility for all users: www.fhwa.dot.gov/policy/fhplan.htm

