

**DRAFT TABLE OF ENVIRONMENTAL COMPLIANCE REQUIREMENTS  
FOR SKAGIT FLOOD DAMAGE REDUCTION STUDY**

| <b>LAWS AND REGULATIONS RELATING TO THE PROPOSED ALTERNATIVES</b>                     | <b>ISSUES ADDRESSED</b>  | <b>CONSISTENCY OF PREFERRED ALTERNATIVE WITH REGULATIONS</b>   |
|---|--|--|
| <b>FEDERAL</b>  |  |  |
| National Environmental Policy Act (NEPA) 42 U.S.C. 4321 et seq.                       | Requires all federal agencies to consider the environmental effects of their actions and to seek to minimize negative impacts  | Consistent   |
| State Environmental Policy Act (SEPA) RCW 43.21                                       | Requires state agencies to consider the environmental effects of their actions and actions of permit applicants.   | NEPA document will be prepared to allow sponsor to adopt NEPA document per SEPA.   |
| Clean Water Act (CWA) 33 U.S.C. 1251 et seq.; Section 404                             | Requires federal agencies to protect waters of the United States. Disallows the placement of dredged or fill material into waters (and excavation) unless it can be demonstrated there are no reasonable alternatives. | Will be consistent per 404(b)(1) evaluation. 404(r) exemption will be sought during EIS process.   |
| Clean Water Act Section 401   | Requires federal agencies to comply with state water quality standards.  | No 401 permit will be issued since 404(r) exemption will be obtained. State 401 conditions will still be obtained.   |
| Clean Water Act, National Pollution Discharge Elimination System (NPDES). Section 402 | Regulates discharge of point sources from project area. If water is collected and managed with a concentrated discharge point then a permit is required.   | NPDES will be obtained upon submittal of a stormwater management plan  |
| Rivers and Harbors Act, Section 10  | Requires that a permit be obtained for structures being placed in navigable waters   | The Corps does not issue Section 10 permits to itself. The Section 10 permit will be followed to determine any proposed in-water structures should be allowed. |
| Fish and Wildlife Coordination Act 16 U.S.C. 661 et seq.                              | Requires federal agencies to consult with the US Fish & Wildlife Service on any activity that could affect fish or wildlife.   | Will be consistent upon acceptance of Final FWCA Report  |
| Endangered Species Act 16 U.S.C. 1531 et seq.;  | Requires federal agencies to protect listed species and consult with US Fish & Wildlife or NMFS regarding the proposed action.   | Consistent upon acceptance of Biological Evaluation.   |

|  |  |   |
|--|--|---|
| Food Security Act of 1985<br>16 U.S.C. 3801-3862   | The 1985 Act contains provisions designed to discourage the conversion of wetlands into non-wetland areas.   | The Corps coordinates its flood control plans involving agricultural lands with the Natural Resources Conservation Service, and alerts project sponsors and affected farmers of their responsibilities for meeting requirements set forth in the "Swampbuster" provisions of the Food Security Act of 1985. |
| National Historic Preservation Act 16 U.S.C. 461;  | Requires federal agencies to identify and protect cultural and historic resources.   | Consistent upon review of determination of no effect by SHPO.   |
| Executive Order 11988, Floodplain Management, 24 May 1977  | Requires federal agencies to consider how their activities may encourage future development in floodplains.  | It must be demonstrated that the selected plan is the plan that induces the least development among the suite of practicable alternatives.  |
| Executive Order 11990, Protection of Wetlands  | Requires federal agencies to protect wetland habitats.   | Addressed through 404 process   |
| Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations | To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. | Selected plan must be shown to not discriminate against minority and low income populations.  |
| Executive Order 13186 Responsibilities Of Federal Agencies To Protect Migratory Birds                                      | Impacts to migratory birds must be considered in project planning.   | Plans will attempt to protect migratory birds.  |
| Farmland Protection Policy Act   | The purpose of this Act is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that will be compatible with State, local government and private programs and policies protecting farmland.  | The Corps must examine the potential impacts of the proposed action and if there are adverse effects on farmland preservation, consider alternatives to lessen the adverse effects.   |
| Shoreline Management Act (SMA) and Shoreline Management Program (SMP) RCW 90.58, WAC 173-14                                | State law implementing the Coastal Zone Management Act requiring local jurisdictions to plan and protect shorelines.   | No permit is required since Federal supremacy will not be waived.   |

|  |   |   |
|--|---|---|
| Coastal Zone Management Act (CZMA) 16 U.S.C. 1451 et seq.; 15 CFR 923  | Requires federal agencies to comply with state and local plans to protect and enhance coastal zone and shorelines.  | Plan must be consistent to the maximum extent practicable.  |
| Coastal Zone Management Act (CZMA) 16 U.S.C. 315 et seq.; 15 CFR 923<br>National Estuarine Research Reserve System | Establishes Estuarine Research Reserve Program and requires that a NOAA-approved management plan be adopted. Federal agencies must consider this management plan in pursuing potential projects that could impact an estuarine reserve. | The management plan for Padilla Bay prohibits projects that will significantly alter the characteristics of Padilla Bay. All project alternatives have to be analyzed to determine if the character of Padilla Bay will be altered. |
| Migratory Bird Treaty Act 16 U.S.C. 703-711  | Taking of migratory birds or destruction of habitat is prohibited by this treaty  | Migratory bird issues must be considered in project planning.   |
| Wild and Scenic Rivers Act 16 U.S.C. § 1271 et seq.  | Proposed project must be compatible with Wild and Scenic Designation  | In alternatives development, consideration of Wild and Scenic River designation was instrumental in elimination of Sauk River Dam alternative.  |
| Washington Hydraulic Code  | Requires proponents of developments, etc. to protect state waters, wetlands and fish life.  | HPA is not required due to Federal supremacy. However, the project will be consistent with HPA conditions developed.  |
| Indian Treaty Rights   | Protect Indian tribes' property, water rights and usual and accustomed fishing areas.   | Will be consistent per public review process.   |
| <b>STATE AND LOCAL</b>   |   |   |
| Growth Management Act  | Requires projects to implement projects which will result in innovative, comprehensive and permanent solutions to flooding problems while employing environmentally sensitive techniques.   | Project will be consistent with adopted County Growth management Plan or Plan will be amended as needed.  |
| State Water Rights   | Water rights may need to be secured for any withdrawals from the Skagit River.  | The determination of consumptive water right must be made for the low flow channel in any diversion to Swinomish Slough.  |
| Hazardous Waste Cleanup Model Toxic Control Act Ch. 70.105d RCW  | Regulates cleanup of former disposal sites.   | Local sponsor is responsible for cleanup of waste sites.  |

