

# 6

## Federal and State Actions Required

This chapter summarizes the anticipated permits, approvals, certifications and regulatory compliance required by federal and state agencies to construct the Preferred Alternative. These permits, approvals, and certifications are required to be obtained before construction begins. No local permits, approvals, or authorizations are required prior to construction, since federal and state law preempts local review. NHDOT will serve as the permit applicant for the permits and reviews listed below.

### 6.1 Federal Compliance

Federal requirements to construct the Preferred Alternative include several permits, approvals, certifications, and reviews from Federal agencies. **Table 6.1-1** outlines the applicable Federal compliance requirements.

**Table 6.1-1 Required Federal Permits, Approvals, Certifications or Regulatory Compliance**

Regulation	Issuing Agency	Name of Approval
National Environmental Policy Act	FHWA	Final SEIS; SROD
Clean Water Act, Section 404; Federal Rivers and Harbors Act, Section 10	USACE	NH Statewide Programmatic General Permit <sup>1</sup>
Clean Water Act, 33 USC §1251 et sq.	USEPA	National Pollutant Discharge Elimination System Construction General Permit <sup>2</sup>
National Historic Preservation Act, Section 106	ACHP and FHWA	Section 106 Consultation <sup>3</sup>
Section 4(f) of the US Department of Transportation Act	FHWA	Section 4(f) Approval

Regulation	Issuing Agency	Name of Approval
Magnuson-Stevens Fishery Conservation and Management Act	NOAA – NMFS	Essential Fish Habitat Assessment <sup>4</sup>
Endangered Species Act	NOAA – NMFS	Designated Critical Habitat <sup>5</sup>
Endangered Species Act	USFWS	Section 4(d) Rule <sup>6</sup>
US Coast Guard Bridge Permit	USCG	Bridge Initiation Request

- 1 It is expected that the Army Corps will authorize the project via a Statewide Programmatic General Permit (*i.e.*, the removal and restoration will not require an individual permit).
- 2 Includes the preparation of a Notice of Intent, Notice of Termination, and combined Stormwater Pollution Protection Plan (SWPPP) and Marine Sediment Containment/Protection Plan. The National Pollutant Discharge Elimination System Construction General Permit is to be prepared just before construction begins.
- 3 An Adverse Effects Memo was executed for the Project on January 2, 2020 which determined that the Preferred Alternative would result in an Adverse Effect to the General Sullivan Bridge (DOV0158). Refer to the executed Adverse Effects Memo in **Appendix I**. Applicable Section 106 consultation documents and correspondence can be found on the project website ([www.newington-dover.com/gsb\\_subsite/contract\\_documents.html](http://www.newington-dover.com/gsb_subsite/contract_documents.html)). An MOA has been finalized following public input on the 2021 DSEIS.
- 4 Essential Fish Habitat consultation with NOAA - NMFS was completed on May 17, 2019. See **Section 3.4**.
- 5 Designated Critical Habitat consultation with NOAA - NMFS was completed on June 18, 2019. See **Section 3.4**.
- 6 The Preferred Alternative complies with the ESA 4(d) rule (NLEB conservation) per the Streamlined Consultation Form. See **Section 3.5**.

### 6.2 State Compliance

Several state approvals are required for the Project. These permits and approvals are outlined below in **Table 6.1-2**.

**Table 6.1-2 Required State Permits, Approvals, Certifications or Regulatory Compliance**

Regulation	Issuing Agency	Name of Approval
NH RSA 482-A, Fill and Dredge in Wetlands	NHDES, Wetlands Bureau	Wetlands Permit
NH RSA 483-B, Shoreland Water Quality Protection Act	NHDES, Shoreland Program	Shoreland Permit
Section 307, Coastal Zone Management Act	NHDES, Coastal Program	Coastal Zone Management Consistency <sup>1</sup>
Section 401, Clean Water Act	NHDES, Watershed Management Bureau	Water Quality Certification <sup>2</sup>

- 1 While the Coastal Zone Management Act is a federal statute, it delegates responsibility to the states to federal consistency statements. In NH, the NH Coastal Program is responsible for finalizing all federal CZMA Section 307 consistency determinations.
- 2 Again, the Clean Water Act is a federal statute, but authority for issuing water quality certificates lies with the NHDES.