

7. Permits and Approvals

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7.1. Introduction

DOT&PF projects and maintenance activities are subject to numerous state and federal resource agency permits, which must be obtained before work can begin even in an emergency situation. The most common are approvals from the USACE for work affecting waters of the U.S., including wetlands, and from ADF&G for work in fish streams.

Section 7.4 provides checklist to help you identify the potential permits necessary for the specific project or activity.

7.2. Responsibility of Statewide Coordinator

The statewide environmental coordinator is the DOT&PF primary point of contact with the Corps concerning permitting issues. The coordinator will review and sign all Corps permit application submittals and will coordinate all Corps permitting issues within the Department. The statewide environmental coordinator must sign all transmittals of preliminary identification/delineations and approval of preliminary jurisdictional determinations for Corps review and verification.

The statewide environmental coordinator will facilitate as appropriate conflict resolution related to non-Corps permitting issues between the regions and

the permitting agency (e.g. ADF&G, ADEC, and ADNRR). However, the regional environmental coordinators have the primary responsibility for conflict resolution of permitting agencies.

7.3. Responsibilities of Regional Environmental Coordinators

The regional environmental coordinators are responsible for acquiring Corps, ADF&G, ADEC, and DGC permits and clearances necessary for construction projects and maintenance. The regional coordinator will ensure that all appropriate permits and clearances have been obtained prior to the start of any construction or maintenance.

The regional environmental coordinators are responsible for monitoring permit compliance during construction and maintenance projects. If the coordinator identifies work occurring that is not authorized, the coordinator (or designee) will notify the project engineer or maintenance foreman, and the appropriate section chief, immediately.

7.4. Construction and Maintenance Activities Permit Checklist

This construction and maintenance checklist is a tool to help staff identify regulatory permits required for DOT&PF actions. Regulations affecting environmental permits are constantly changing, as are the interpretation and implementation of those regulations. We encourage you to make early contact with the appropriate agency and to carry that coordination through the project development process. This will help avoid the time and expense that a change in regulations can cause, and will help you avoid interpretation errors.

7.5. Environmental Permits and Approvals Checklist for DOT&PF Construction Projects and Maintenance Activities

<u>TASK</u>	<u>YES</u>	<u>NO</u>	<u>PERMIT/APPROVAL</u>	<u>AGENCY</u>	<u>REASON FOR PERMIT/APPROVAL</u>
Excavating or placing fill in the waters of the United States, including wetlands	<input type="checkbox"/>	<input type="checkbox"/>	Section 404 Permit	U.S. Army Corps of Engineers	Under the Clean Water Act of 1972, a Section 404 permit is required for construction or placement or discharging dredged or fill materials into waters of the United States, including wetlands. Some activities are covered by Nationwide Permits. See page 9.
Dredging, placing structures, or other work in or affecting navigable waters	<input type="checkbox"/>	<input type="checkbox"/>	Section 10 Permit	U.S. Army Corps of Engineers	Under the River and Harbor Act of 1899, a Section 10 permit is required for construction or placement of structures (e.g. breakwaters, mooring buoys, floats, etc.), dredging or other work in or affecting navigable waters of the United States.
Transporting dredged material for disposal in ocean waters	<input type="checkbox"/>	<input type="checkbox"/>	Section 103	U.S. Army Corps of Engineers	This permit is required under the Marine Protection, Research, and Sanctuary Act of 1972 for the transportation of dredged material for disposal in ocean waters.

<u>TASK</u>	<u>YES</u>	<u>NO</u>	<u>PERMIT/APPROVAL</u>	<u>AGENCY</u>	<u>REASON FOR PERMIT/APPROVAL</u>
Placing structures or fill on state tidelands	<input type="checkbox"/>	<input type="checkbox"/>	Tidelands Lease	AK Dept. of Natural Resources	A tidelands lease may be required to conduct operations on state tidelands (measured from the mean high tide line seaward for three miles) if the structures are or will remain permanent.
Temporary use of state tidelands	<input type="checkbox"/>	<input type="checkbox"/>	Tidelands Permit	AK Dept. of Natural Resources	A tidelands permit may be required for certain activities on state tidelands. Tidelands permits are subject to revocation without cause and are issued for one to five years.
Placement of discharge/outfall/intake lines on state tide and submerged lands	<input type="checkbox"/>	<input type="checkbox"/>	Right-of-Way Permit	AK Dept. of Natural Resources	This permit is required for the placement of discharge, outfall, or intake lines on state tide and submerged lands.
Constructing projects on state-owned lands or crossing state-owned lands for access	<input type="checkbox"/>	<input type="checkbox"/>	Land Use Permit	AK Dept. of Natural Resources	A land use permit may be required for certain activities and equipment on state-owned land. Because the state owns most land below the ordinary high water line of navigable streams and lakes, this permit is required for most activities in waters of larger streams.
Appropriating freshwater from any subsurface or surface source, on a temporary basis, on all lands regardless of ownership	<input type="checkbox"/>	<input type="checkbox"/>	Temporary Water Use Permit	AK Dept. of Natural Resources	This permit may be required when taking freshwater for uses such as dust abatement and material compaction during construction, domestic uses at construction camps, and hydro-seeding after construction.

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Appropriating freshwater from any subsurface or surface source, on a permanent basis, on all lands regardless of ownership	<input type="checkbox"/>	<input type="checkbox"/>	Water Right Permit/Certificate	AK Dept. of Natural Resources	A water right permit/certificate may be required for any permanent withdrawal, diversion, or impoundment of freshwater, regardless of the use.
Construction or other activities in specified anadromous streams or that block fish passage in streams with resident fish	<input type="checkbox"/>	<input type="checkbox"/>	Fish Habitat Permit (Title 41)	AK Dept. of Natural Resources	A fish habitat permit may be required for any activity that either (1) involves a dam or obstruction in water bodies containing resident fish, or (2) equipment use or construction activities that would disturb the natural flow of a specified anadromous stream, river, or lake. This includes crossing of anadromous streams by vehicles. Title 16 generally does not apply to activities in a marine environment. However, if a project will affect the mouth of a stream, defined by a line drawn between the seaward extremities of the exposed tideland banks at MLLW, a fish habitat permit is required.
Construction, continuing use, or other activity in state game refuges, critical habitat areas, or sanctuaries	<input type="checkbox"/>	<input type="checkbox"/>	Special Area Permit	AK Dept. of Fish and Game	Required for uses and activities conducted in legislatively designated state game refuges, critical habitat areas, or game sanctuaries.
Point-source discharge of wastewater or storm water into waters of the United States	<input type="checkbox"/>	<input type="checkbox"/>	National Pollution Discharge Elimination System Permit (NPDES)	U.S. Environmental Protection Agency	Under Section 402 of the 1972 Clean Water Act, this permit may be required for point source discharges of wastewater or storm water from construction, industrial, or commercial operations.

<u>TASK</u>	<u>YES</u>	<u>NO</u>	<u>PERMIT/APPROVAL</u>	<u>AGENCY</u>	<u>REASON FOR PERMIT/APPROVAL</u>
Disposing wastewater into or upon waters or lands of the state	<input type="checkbox"/>	<input type="checkbox"/>	Wastewater Disposal Permit	AK Dept. of Environmental Conservation	Operations resulting in the disposal of wastewater into or upon waters or lands of the state require this permit (may include boat grids and fish cleaning facilities).
Activities requiring a permit under the Clean Water Act	<input type="checkbox"/>	<input type="checkbox"/>	401 Certificate of Reasonable Assurance	AK. Dept of Environmental Conservation	ADEC issues a 401 Certificate to accompany any federal permit pursuant to the Clean Water Act (e.g. Corps of Engineers Section 404 and U.S. Coast Guard Section 9 permits) and EPA NPDES permit. Certification is issued after state review of the permit. A request for certification is published with the permit application.
Construction of sewer and drinking water facilities	<input type="checkbox"/>	<input type="checkbox"/>	Design Plan Approval	AK Dept. of Environmental Conservation	Sewer and water facilities must receive design plan approval before construction. Water systems must receive a certificate to construct before well installation. This includes extension of municipal lines.

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Activities in or outside of the coastal zone that affect a land or water use or natural resource of the State of Alaska coastal zone, as defined in the volume Coastal Zone Boundaries of Alaska, dated 1988, updated in 1991	<input type="checkbox"/>	<input type="checkbox"/>	Coastal Consistency Determination	AK Div. Of Gov. Coordination	Each applicant must complete a Coastal Project Questionnaire and submit it to the DGC. Each state agency with permit-review authority and any affected coastal district must find that proposed activities within the coastal zone of Alaska are consistent with applicable standards of the coastal management program. All permits must comply with all state agency statutes and regulations. The DGC will coordinate all agency determinations and permit applications.
Activities that may affect cultural or historic resources	<input type="checkbox"/>	<input type="checkbox"/>	Section 106 Review	AK Dept. of Natural Resources, State Historic Preservation Office	A Section 106 review under the National Historic Preservation Act of 1966, as amended, is required for all federal projects and projects requiring federal permits. The state historic preservation officer makes a determination regarding project impacts on known cultural resources. The SHPO may require a cultural resources survey. The SHPO ensures cultural and historic resources will not be adversely affected and ensures agency compliance with Section 106.
Activities that may affect threatened or endangered species	<input type="checkbox"/>	<input type="checkbox"/>	Endangered Species Act of 1973, Section 7 Consultation	U.S. Fish and Wildlife Service or National Marine Fisheries Service	Section 7 consultation is required with USFWS and/or NMFS for the protection of endangered or threatened species (e.g. peregrine falcons, Aleutian Canada geese, and certain marine mammals).

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Activities that may affect marine mammals	<input type="checkbox"/>	<input type="checkbox"/>	Marine Mammal Protection Act Consultation	National Marine Fisheries Service	Under Section 101 (a)(5) of the Marine Mammal Protection Act, consultation is required for any action that might affect marine mammals.
Construction of bridges over navigable waters	<input type="checkbox"/>	<input type="checkbox"/>	Section 9 Permit for Bridges Over Navigable Waters	U.S. Coast Guard	Under Section 9 of the River and Harbor Act of 1899, as amended, and the General Bridge Act of 1946, as amended, the plans and location for construction or alteration of bridges and causeways across navigable waters of the United States must be approved by the U.S. Coast Guard before the start of construction. This applies to any overhead crossing except for electrical transmission lines. Crossings requiring permits include highways, temporary or permanent access roads, foot bridges and pipelines for water, sewer, oil, natural gas, or other material.
Installation of private aids to navigation	<input type="checkbox"/>	<input type="checkbox"/>	Applications for Private Aids to Navigation under Title 33, Parts 62.25, 64, 66, and 67	U.S. Coast Guard	Private aids to navigation and permits for their use on man-made structures in or over navigable waters if the U.S. Coast Guard determines the facilities to be obstructions to navigation.

7.6. Nationwide Permits and General Conditions

The Army Corps of Engineers issues Nationwide Permits (NWP) to regulate, with little delay or paperwork, certain in-water activities having minimal impacts. The NWP authorizes these activities on a nationwide basis unless specifically limited. An activity is authorized under an NWP only if that activity and the project proponent satisfy all terms and conditions. Activities that do not qualify for authorization under an NWP still may be authorized by an individual permit or regional general permit.

Authorization means that specific activities that qualify for an NWP may proceed. After determining an activity complies with all applicable terms and conditions, the project proponent may assume an authorization of an NWP. This assumption is subject to the Corps' authority to determine if an activity complies with the NWP's terms and conditions. Many NWPs require the Corps to be notified before the activity is started. This condition is noted in the description of the applicable NWPs. Regional conditions for the State of Alaska are available on the Corps' regulatory Web site.

The Corps may suspend, modify, or revoke authorizations under an NWP for cases where there is concern for the aquatic environment under the Clean Water Act Section 404 (b)(1) Guidelines, or if it is in the public's interest. If the Corps finds the proposed activity would have more than minimal individual or cumulative net adverse effects on the environment or otherwise may be contrary to the public interest, the project proponent will be required to apply for a regional general permit or an individual permit.

Nationwide permits only authorize activities under Corps regulatory authorities. Other federal, state, and local permits, approvals, or authorizations also may be required. State 401 Water Quality Certification pursuant to section 401 of the Clean Water Act, or a waiver thereof, is required before an NWP is issued for activities that may result in a discharge into waters of the United States.

A Coastal Consistency Determination is also required for activities within or affecting the state's coastal zone. The current NWPs, which will expire

March 18, 2007, unless previously modified, revoked or reissued, have all received Section 401 Water Quality Certification and a Coastal Zone Consistency Determination.

7.7. Classification of State Agency Permits

Some projects that will have no significant impact on coastal resources, or that are routine activities, may be exempt from individual consistency review requirements. These projects are called "categorical permits" or "general concurrence determinations," respectively. The state maintains a list identifying permits and projects that qualify for these categories of expedited review. This list is referred to as the "Classification of State Agency Permits" (ABC List). Applicants must complete a coastal project questionnaire so the state can determine whether a proposed project qualifies for an expedited review. Contact the Division of Governmental Coordination for more information.

7.8. Southcentral Agency Contacts

Federal

U.S. Army Corps of Engineers, Alaska
ATTN: CENPA-CO-R
P.O. Box 898
Anchorage, AK 99506-0898
Phone: (907) 753-2712
Toll Free: (800) 478-2712

Environmental Protection Agency
Alaska Operations
222 West Seventh Ave.
Anchorage, AK 99513
Phone: (907) 271-5083

National Marine Fisheries Service
Regional Office
P.O. Box 21668
Juneau, AK 99802-1668
Phone: (907) 586-7645

U.S. Fish and Wildlife Service
Western Alaska Ecological Services
605 West Fourth Ave., Room 62
Anchorage, AK 99501
Phone: (907) 271-2888

U.S. Coast Guard
Commander (oan)
Seventeenth Coast Guard District
P.O. Box 25117
Juneau, AK 99802-5517
Phone: (907) 563-6529
Phone: Bridges - (907) 463-2248
Aids to Navigation - (907) 463-2254

State

Dept. of Natural Resources
State Historic Preservation Office
P.O. Box 107001
Anchorage, AK 99510-7001
Phone: (907) 762-2626

Dept. of Natural Resources/Water
3601 C Street, Suite 822
Anchorage, AK 99503
Phone: (907) 762-2568

Dept. of Natural Resources/Land
Southcentral District Office
P.O. Box 107005
Anchorage, AK 99510-7005
Phone: (907) 762-2249

Dept. of Natural Resources
Office of Habitat Management and Permitting
333 Raspberry Road
Anchorage, AK 99518-1599
Phone: (907) 267-2284

Kenai River Center
514 Funny River Rd.
Soldotna, AK 99669
Phone: (907) 260-4882

1800 Glenn Highway Suite 12
Palmer, AK 99645
Phone: (907) 761-3856

Alaska Dept. of Env. Conservation
Southcentral Office
3601 C Street, Suite 1334
Anchorage, AK 99503
Phone: (907) 563-6529

Division of Governmental Coordination
3601 C Street, Suite 370
Anchorage, AK 99503-5309
Phone: (907) 561-6131

7.9. Northern Agency Contacts

Federal

U.S. Army Corps of Engineers, Alaska
ATTN: CENPA-CO-R
P.O. Box 898
Anchorage, AK 99506-0898
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P.O. Box 21668
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Phone: (907) 586-7645

U.S. Fish and Wildlife Service
Northern Alaska Ecological Services
1412 Airport Way
Anchorage, AK 99701
Phone: (907) 456-0239

U.S. Coast Guard
Commander (oan)
Seventeenth Coast Guard District
P.O. Box 25117
Juneau, AK 99802-5517
Phone: (907) 563-6529
Phone: Bridges (907) 463-2248
Aids to Navigation (907) 463-2254

State

Dept. of Natural Resources
State Historic Preservation Office
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Phone: (907) 762-2626

Dept. of Natural Resources/Water
3700 Airport Way
Fairbanks, AK 99709-2703
Phone: (907) 451-2073

Dept. of Natural Resources/Land
Northern Regional Office
3700 Airport Way
Fairbanks, AK 99709
Phone: (907) 451-2700

Dept. of Natural Resources
Office of Habitat Management and Permitting
1300 College Road
Fairbanks, AK 99709
Phone: (907) 451-6192

Alaska Dept. of Env. Conservation
Northern Regional Office
610 University Ave.
Fairbanks, AK 99701
Phone: (907) 451-2141

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7.10. Southeast Agency Contacts

Federal

U.S. Army Corps of Engineers, Alaska
ATTN: CENPA-CO-R
P.O. Box 898
Anchorage, AK 99506-0898
Phone: (907) 753-2712
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222 West Seventh Ave.
Anchorage, AK 99513
Phone: (907) 271-5083

National Marine Fisheries Service
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P.O. Box 21668
Juneau, AK 99802-1668
Phone: (907) 586-7645

U.S. Fish and Wildlife Service
Southeast Alaska Ecological Services
P.O. Box 021287
Juneau, AK 99802-1287
Phone: (907) 586-7240

U.S. Coast Guard
Commander (oan)
Seventeenth Coast Guard District
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Juneau, AK 99802-5517
Phone: (907) 563-6529
Phone: Bridges (907) 463-2248
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State

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Dept. of Natural Resources
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Dept. of Natural Resources/Water
400 Willoughby Ave.
Juneau, AK 99801-1796
Phone: (907) 465-3400

Dept. of Natural Resources/Land
Southeast Regional Office
400 Willoughby Ave.
Juneau, AK 99801-1796
Phone: (907) 465-3400

Dept. of Natural Resources
Office of Habitat Management and Permitting
Southeast Area Office
400 Willoughby Ave., 4th Floor
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(907) 465-4105

P.O. Box 667
Petersburg, AK 99833
Phone: (907) 772-3801

Prince of Wales Area Office
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Craig, AK 99921
(907) 826-2560

Division of Governmental Coordination
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240 Main Street, Suite 500
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