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Chapter 05

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40. (Repealed).
45. Rest stops and pullouts.
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17 AAC 05.010. STATE HIGHWAY SYSTEM (a) The state highway system includes highway facilities that fall within one of the following program classifications:

(1) highways that are included within the National Highway System established under 23 U.S.C. 103;

(2) the highway elements of the Alaska Highway System under 17 AAC 05.170(c);

(3) highways and transportation-related facilities designated under 17 AAC 05.170(d) (Community Transportation Program) or 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program).

(b) The department will compile and publish a list of highway facilities that constitute the state highway system. In that list, the department will include

(1) the name common to or designated for each highway;

(2) each highway's numerical designation, if any;

(3) each highway's beginning and terminal points; and

(4) each highway's general route, identified by denoting principal settlements and landmarks along its course.

(c) Repealed 3/8/2002.

(d) To become official, designation of the state highway system must occur by means of a declaration of adoption by the commissioner. To become effective, a revision, addition, or deletion to that designation must occur by means of a similar declaration. The department will make available official maps of the system at cost.

(e) The provisions of (d) of this section do not apply to minor adjustments, revisions, or relocations, if the general location, route, and termini of each highway remain substantially unchanged and the class of the highway is not altered.

(f) The department may include both present and future routes in the state highway system, if future routes are suitably distinguished from present routes upon all maps, and in all recommendations and declarations of adoption by the commissioner.

Editor's note: Maps and documents identifying the state highway system, adopted as described in 17 AAC 05.010(d), may be inspected at regional and headquarters offices of the Department of Transportation and Public Facilities in Anchorage, Fairbanks, and Juneau.

17 AAC 05.020. COMMISSIONER'S DEED Whenever any real property, or interest therein, shall have been acquired by or transferred to the state through inadvertence or mistake in connection with highway purposes, the department shall prepare and submit a deed signed by the commissioner reconveying the right, title, or interest acquired. However, the reconveyance may not be executed until the state has been repaid the consideration, if any, for the acquisition or transfer.

17 AAC 05.045. REST STOPS AND PULLOUTS (a) A person may not park a vehicle or camp for longer than the posted limits in a highway rest stop or pullout located on the state highway system.

(b) Except for information posted on traveler information kiosks described in 17 AAC 60.401, a person may not advertise goods or services or solicit in a highway rest stop or pullout on the state highway system.

(c) Except for activities conducted by a government agency or a contractor acting on behalf of a government agency, a person may not sell goods or services or conduct a commercial activity that involves an exchange of goods or services in a highway rest stop or pullout on the state highway system.

17 AAC 05.080. INNOVATIVE CONSTRUCTION CONTRACTING PILOT PROGRAM (a) The innovative construction contracting pilot program may be used for the construction of a project that has unique requirements because of locale, climatic conditions, or environmental constraints, and the commissioner determines that use of this program for a particular project is in the best interests of the state. On a contract specific basis, the department will, in its discretion, provide for a bonus to encourage local industry, strengthen and stabilize the economy, decrease unemployment, or strengthen the tax and revenue base of the state, if the successful bidder, upon completion of performance on the contract, has achieved the goal for which the bonus is authorized.

(b) Award of a construction contract under the innovative construction contracting pilot program will be to the lowest responsible bidder that is responsive to the invitation to bid.

(c) The following sections from AS 36.30 are incorporated by reference and apply to the innovative construction contracting pilot program:

(1) AS 36.30.110 (invitation to bid);

(2) AS 36.30.120 (bid security);

(3) AS 36.30.130 (public notice of invitation to bid);

(4) AS 36.30.140 (bid opening);

(5) AS 36.30.150 (bid acceptance and bid evaluation);

(6) AS 36.30.160 (late bids);

(7) AS 36.30.170(a) (award to the lowest responsible and responsive bidder);

(8) AS 36.30.560 - 36.30.615 (bid protests);

(9) AS 36.30.620 - 36.30.630 (contract controversies); and

(10) AS 36.30.670 - 36.30.690 (hearings and appeals).

(d) The following sections from 2 AAC 12 are incorporated by reference and apply to the innovative construction contracting pilot program:

(1) 2 AAC 12.120 (invitations for competitive sealed bids);

(2) 2 AAC 12.130 (public notice);

(3) 2 AAC 12.140 (pre-opening correction or withdrawal of bids);

(4) 2 AAC 12.150 (receipt, opening, and recording of bids);

(5) 2 AAC 12.160 (late bids, late corrections, and late withdrawals);

(6) 2 AAC 12.170 (inadvertent errors discovered after opening but before award);

(7) 2 AAC 12.180 (bid evaluation and award);

(8) 2 AAC 12.190 (only one responsive bid received);

(9) 2 AAC 12.200 (documentation of award); and

(10) 2 AAC 12.210 (notice of intent to award).

(e) For the purposes of this section,

(1) "best interests of the state" has the meaning set out in sec. 8(e), ch. 59, SLA 1994;

(2) "innovative construction contracting pilot program" has the same meaning as "innovative construction procurement methods pilot program" described in sec. 8, ch. 59, SLA 1994.

17 AAC 05.120. STATEWIDE TRANSPORTATION PLANNING PROCESS In the statewide transportation planning process, the department will provide for

(1) data collection and analysis;

(2) consideration of objectives set out in 17 AAC 05.125;

(3) coordination of activities identified in 17 AAC 05.135;

(4) the development of a range of transportation options designed to meet the transportation needs of passengers and freight and the safety of persons and property, including all modes and their connections; and

(5) consideration of comments from the public and interested persons.

17 AAC 05.125. STATEWIDE TRANSPORTATION PLANNING OBJECTIVES (a) In the statewide transportation planning process, the department will consider goals and objectives that will further

(1) the economic vitality of the state;

(2) the safety and security of users of the state's transportation system;

(3) accessibility and mobility options available to people and for freight;

(4) the integration and connectivity of various modes of the state's transportation system;

(5) the preservation of existing transportation systems; and

(6) any metropolitan area plan developed under 23 U.S.C. 134 and 49 U.S.C. 5303-5306.

(b) When formulating its goals and objectives in the statewide transportation plan, and the strategies to implement those goals and objectives, the department will consider the concerns of interested persons and minimize any adverse environmental, economic, or social impact of those goals and objectives upon any segment of the population.

17 AAC 05.130. STATEWIDE TRANSPORTATION PLAN (a) In the statewide transportation plan, the department will present the goals and objectives that will guide the development for a forecast period of 20 years for each of the state's modes of transportation. In the plan the department will consider means and costs of improving existing modes and facilities, whether each project is expected to qualify for state and federal financing, and the costs and benefits of new transportation modes and facilities. The department will develop the plan to address the entire state, and will include in the plan separate components, subdivided by geographic region, modes of transportation, and other distinctions relevant to statewide transportation planning

(b) The department will update the statewide transportation plan at least every five years to reflect population and economic trends, transportation service demands, changes in technology, economic development projects, and the identification of new transportation objectives.

17 AAC 05.135. PUBLIC PARTICIPATION IN THE STATEWIDE TRANSPORTATION PLANNING PROCESS (a) To give notice of a proposed update to the statewide transportation plan and invite persons to participate in a public review group to be formed under 17 AAC 05.140, the department will

(1) publish the notice in a newspaper of general circulation;

(2) provide Written notice to interested persons and incumbent state legislators; and

(3) post the notice on the Alaska Online Public Notice System established under AS 44.62.175.

(b) In a notice provided under (a) of this section, the department will set out

(1) a summary of parts of the plan to be updated;

(2) a summary of the scope of the updated plan;

(3) the general plan for public participation activities; and

(4) a means of contacting the department by providing

(A) a mailing address;

(B) a toll-free telephone number;

(C) a toll-free fax number;

(D) an electronic mail address; and

(E) a telephone number to allow participation by the hearing impaired;

(c) With a notice provided under (a)(2) of this section, the department will provide one or more of the following:

(1) a postcard that the recipient can mail back to request further inclusion in the planning process;

(2) a brief questionnaire soliciting comments regarding the existing plan, proposals or changes to the plan, and suggestions for improving public involvement;

(3) a means, other than a means described in (1) or (2) of this subsection, for persons to provide immediate comments.

17 AAC 05.140. METHODS FOR RECEIVING PUBLIC INPUT (a) Not less than 45 days after notice is first published under 17 AAC 05.135(a)(1) of a proposed update to the statewide transportation plan, the department will form a public review group for the proposed update to the plan. In the public review group the department will include any person that

(1) responded under 17 AAC 05.135(c); or

(2) requests inclusion in the review process.

(b) The department will give members of a public review group written notice of all materials prepared during the update of the statewide transportation plan. In that notice, the department will state that copies of any specific documents are available upon request, and will identify any web site where documents are posted.

(c) A person may comment upon the proposed update to the statewide transportation plan by

(1) responding to a questionnaire provided under 17 AAC 05.135(c)(2);

(2) contacting the department staff by a means identified under 17 AAC 05.135(b)(4); or

(3) submitting comments at a public meeting conducted by the department on the revision of the statewide transportation plan.

(d) For any update of the statewide transportation plan, the department will conduct at least one public meeting to solicit comments from members of the public and interested persons. The department will provide notice of a public meeting in a manner that the department considers effective to notify affected communities and members of the public who are expected to attend.

(e) After considering public comments, the department will issue a draft statewide transportation plan. The commissioner may appoint a public advisory committee, with at least six members whom the commissioner considers representative of community or transportation interests, to review the public comments received under (c) and (d) of this section and recommend options for policy development or strategies for inclusion in the updated plan.

17 AAC 05.145. PUBLIC REVIEW OF THE DRAFT PLAN (a) The department will provide written notice to interested persons and members of the public review group formed under 17 AAC 05.140 that the draft statewide transportation plan is available on

request, and will identify a web site where the plan is posted. The department will distribute copies to municipal public libraries.

(b) The department will include a questionnaire with each copy of the draft statewide transportation plan that solicits comments regarding the draft plan. The department will conduct at least one public meeting to solicit comments from members of the public and interested persons on the draft statewide transportation plan. The department will provide notice of a public meeting in a manner that the department considers effective to notify affected communities and members of the public who are expected to attend.

(c) The department will set a public review and comment period for the draft statewide transportation plan of at least 45 days, commencing three days after notice of the availability of the draft statewide transportation plan is released to interested persons and the public review group.

(d) The department will make available upon request comments received during the public comment period and the department's responses to those comments.

17 AAC 05.150. ADOPTION OF THE STATEWIDE TRANSPORTATION PLAN

(a) Not more than 90 days after the end of the public review period for the draft transportation plan under 17 AAC 05.145, the commissioner, after considering the public comments received, will adopt an updated statewide transportation plan that serves the best interests of the state. The commissioner may extend the date for the adoption of the updated statewide transportation plan an additional 120 days.

(b) Within 15 days after adoption of the updated statewide transportation plan by the commissioner, the department will provide written notice of the adoption to interested persons, the public review group formed under 17 AAC 05.140, and any public advisory committee appointed under 17 AAC 05.140(e).

(c) When the commissioner adopts a printed document or map as a component of the statewide transportation plan, the department will include an adoption page bearing the signature of the commissioner and date of adoption. Each page and map must bear the notation "An approved component of the Alaska Statewide Transportation Plan" followed by the month, day, and year of the commissioner's adoption of the entire document.

17 AAC 05.155. STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) (a) At least every three years, the department will develop a statewide transportation improvement program (STIP). The purpose of the STIP is to schedule the expenditure of surface transportation money on designated projects over a three-year period.

(b) During the development of the STIP, and after consultation with all municipalities contained within a metropolitan planning organization (MPO) and notice to interested parties outside an MPO, the commissioner will make a written determination of the level of federal financing allocated under 17 AAC 05.170(d) (Community Transportation Program) and 17 AAC 05.170(e) (Trail and Recreational Access for Alaska (TRAAK) Program) to an MPO. In that determination, the commissioner will equitably allocate financing for surface transportation according to one or more of the following criteria:

(1) the number of lane miles of existing and proposed highways and roads in each metropolitan planning area as compared to the remainder of the state;

(2) the geometric and functional deficiencies of highways and roads in each metropolitan planning area as compared to the remainder of the state;

(3) the number of miles of sidewalks, trails, and waysides in each metropolitan planning area as compared to the remainder of the state;

(4) the number of vehicle miles traveled or traffic congestion in each metropolitan planning area as compared to the remainder of the state;

(5) the number and severity of traffic accidents in each metropolitan planning area as compared to the remainder of the state;

(6) the capacity of the tax and employment base to contribute local money to the cost of surface transportation within each metropolitan planning area as compared to the remainder of the state;

(7) the population within each metropolitan planning area as compared to the remainder of the state;

(8) the degree of unmet need for new or improved transportation features within each metropolitan planning area as compared to the remainder of the state;

(9) consideration of the unmet needs for minority and low-income population in each metropolitan planning area compared to the remainder of the state.

(c) In consultation with each MPO, the department will estimate the total amount of money available, by federal category, for the MPO's metropolitan transportation improvement program (TIP), including federal money available under (b) of this section, and state and local money for any project included in the TIP as required by 23 C.F.. 450.324(0(3). The department will include a metropolitan planning area's TIP without modification in the SIIP, but only if each TIP has been approved by its MPO and the governor, or by the MPO and a designee of the governor if acceptable to the United States Department of Transportation for purposes of approval under 23 U.S.C. 135(f), 23 C.F.R. 450.216(a), and 23 C.F.R. 450.220.

17 AAC 05.160. PUBLIC PARTICIPATION IN STIP PROCESS (a) At least every three years, the department will provide for participation in development of the STIP by

(1) interested persons;

(2) MPOs; the department will involve MPOs on a cooperative basis for the portions of the STIP affecting metropolitan planning areas;

(3) in areas outside of metropolitan planning areas, local officials with responsibility for transportation; and

(4) members of the public.

(b) In a notice provided under (c), (e), or (f) of this section, the department will set out means to contact the department through

(1) a mailing address;

(2) a toll-free telephone number;

(3) a toll-free fax number;

(4) an electronic mail address; and

(5) a telephone number to allow participation by the hearing impaired.

(c) The department will solicit nominations of projects for inclusion into the STIP by classification under 17 AAC 05.170. To solicit nominations, the department will give notice by publishing that notice in a newspaper of general circulation, posting that notice on the Alaska Online Public Notice System established under AS 44.62.175, and

providing written notice to interested persons and MPOs. In the notice, the department may include a description of the relative weights assigned to the applicable evaluation criteria for the projects in each project category listed in 17 AAC 05.175, or the department may provide notice of changes to the relative weights in a separate notice and public review period. Whether combining notices or providing notices separately, the department will allow at least 30 days after release of a notice for respondents to submit their nominations to the department and to comment upon the relative weights assigned to the applicable evaluation criteria for the projects in each project category.

(d) After nominations are submitted, the department will include them in the project needs list and prepare a preliminary STIP that evaluates those projects statewide under 17 AAC 05. 175.

(e) The department will publish a notice at least once in a newspaper of general circulation, and provide written notice to interested persons, MPOs, and local officials from areas outside MPOs, that an updated project needs list and preliminary STIP have been prepared. If requested, the department will provide a copy of the project needs list and the preliminary STIP. The department will allow not less than 30 days after notice is released for review and comment upon the project needs list and preliminary STIP. During the review and comment period, the department will conduct at least one public meeting to solicit comments from members of the public, interested persons, and other participants under this section. The department will provide notice of a public meeting in a manner that the department considers effective to notify affected communities and members of the public who are expected to attend.

(f) The department will provide written notice of the availability of a draft STIP prepared under 17 AAC 05.180 to the participants listed in (a) of this section.

(g) The department may conduct public meetings to solicit comments on the draft STIP from members of the public and interested persons. The department will provide notice of any public meeting in a manner that the department considers effective to notify affected communities and members of the public who are expected to attend.

(h) The department will not amend the STIP without first, if required, giving notice under 17 AAC 05.195.

17 AAC 05.165. GENERAL REQUIREMENTS FOR THE STIP (a) In a STIP the department will list surface transportation projects to be completed in the next three years, evaluated and prioritized in each year to serve the state's best interests. Project prioritization within a metropolitan planning area is determined by its MPO in its TIP.

(b) Projects included in the STIP must be consistent with the statewide transportation plan developed under 17 AAC 05.120 - 17 AAC 05.150;

(c) For each project, or an identified phase of a project, the department will state the

(1) estimated total project cost; the total project cost may extend beyond the three years of the STIP;

(2) state, federal, and other financing that is available for the project; and

(3) amount of financing proposed for obligation during each program year for the project or phase.

(d) Projects that are not considered of appropriate scale for individual identification in a given program year may be grouped by the categories set out in 17 AAC 05.175(b) - (f), by function, by work type, or by geographic area.

(e) The department will include, as projects listed in the STIP, surface transportation projects eligible for financing under 23 U.S.C. or 49 U.S.C. 5301 - 5338, except for

(1) projects in a metropolitan planning area that are financed with amounts allocated for projects classified under 17 AAC 05.170(d) (Community Transportation Program) or 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program); and

(2) state planning and research projects funded under 23 U.S.C. 505 and 49 U.S.C. 53 13(b).

17 AAC 05.170. PROJECT CLASSIFICATION (a) The department will classify projects in one of the following categories:

(1) the National Highway System, including ferries and terminals;

(2) the Alaska Highway System;

(3) the Community Transportation Program; and

(4) the Trails and Recreational Access for Alaskans (TRAAK) Program.

(b) Highways in the National Highway System and the Alaska Highway System are eligible for inclusion in the STIP but are not evaluated by the department under 17 AAC 05.175. Except for projects to which 17 AAC 05.200 applies, the department will evaluate the projects within the Community Transportation Program and the Trails and Recreational Access for Alaska Program by the scoring criteria under 17 AAC 05.175.

(c) The Alaska Highway System includes existing or planned surface facilities that are of statewide significance though not included in the National Highway System. The Alaska Highway System specifically includes

(1) marine vessels and facilities, including

(A) Alaska Marine Highway System terminals and vessels that are not included in the National Highway System; and

(B) terminals and vessels owned and operated by political subdivisions of the state that provide service between communities in the state;

(2) Craig-Klawock-Hollis Highway, from Craig to Clark Bay;

(3) Copper River Highway, from Cordova to end;

(4) Denali Highway, from Richardson Highway to Parks Highway;

(5) Aleknagik Lake Road, from Kanakanak Road to the village of Aleknagik;

(6) Edgerton Highway and McCarthy Road, from Richardson Highway to end;

(7) Elliott Highway, from the Dalton Highway junction to end;

(8) Glacier Highway, from the Auke Bay Ferry Terminal to Echo Cove;

(9) Klawock Airport Road, from Klawock Airport to Big Salt Lake Road;

(10) Big Salt Lake Road, from Craig-Klawock-Hollis Highway to end;

(11) Hope Highway, from Seward Highway to Hope;

(12) Thorne Bay Road, from Big Salt Lake Road to Thorne Bay;

(13) North Prince of Wales Road, from the Big Salt Lake Road junction to the Coffman Cove junction;

(14) King Salmon-Naknek Road, from Naknek to King Salmon;

(15) Nabesna Road, from Tok Cutoff to Nabesna;

(16) Nome-Teller Highway, from Nome to Teller;

(17) Nome-Council Highway, from Nome to Council;

(18) Kougarok Road (Nome-Taylor Highway), from Nome-Council Highway to its end at the historic community of Taylor;

(19) Steese Highway, from the Elliott Highway junction to Circle Hot Springs;

(20) Minto Spur, from Elliott Highway to Minto;

(21) Northway Road, from Alaska Highway to Northway;

(22) Mentasta Road, from Tok Cutoff to Mentasta;

(23) Lake Louise Road, from Glenn Highway to Lake Louise;

(24) Clear Road/Anderson Road, from Parks Highway to Anderson;

(25) Chena Hot Springs Road, from Steese Highway to Chena Hot Springs;

(26) Old Glenn Highway, from Palmer to the Glenn Highway;

(27) Palmer-Wasilla Highway, from Glenn Highway to Parks Highway;

(28) Petersville Road, from Parks Highway to end;

(29) Talkeetna Road, from Parks Highway to end;

(30) Taylor Highway, from Alaska Highway to Eagle;

(31) Top of the World Highway, from Taylor Highway to Canadian border;

(32) North Tongass Highway, from the Ketchikan Airport Ferry Terminal to end;

(33) South Tongass Highway, from Bawden Street to end;

(34) Pile Bay Road, from Williamsport to Pile Bay;

(35) Eureka to Rampart Road, from Elliott Highway to Rampart;

(36) Chiniak Highway, from Sargent Creek Road to Pasagshak Road;

(37) Pasagshak Road, from Chiniak Highway to the Kodiak Missile Launch Complex;

(38) Rezanof Drive West, from Airport Terminal Road to Chiniak Highway;

(39) Anton Larson Bay Road, from Cape Chiniak Road to milepost 12.3;

(40) Mitkof Highway, from the Petersburg Ferry Terminal to the planned ferry terminal on the south end of Mitkof Island;

(41) Chignik Connector, a planned route linking Chignik to Chignik Lagoon and Chignik Lake;

(42) South Naknek Access, a planned route crossing the Naknek River from South Naknek to King Salmon-Naknek Road; and

(43) Iliamna to Nondalton Road.

(d) Projects in the Community Transportation Program include surface transportation facilities of local or regional significance that are owned by the state or its political subdivisions, that are not included in the National Highway System, and that are not included in the Alaska Highway System. Project categories in this program include rural and urban streets, remote roads and trails, transit projects, and intelligent transportation systems.

(e) Projects in the Trails and Recreational Access for Alaska (TRAAK) Program

(1) are those that qualify for financing under

(A) 16 U.S.C. 460l-4 - 460l-11 (Land and Water Conservation Fund Act of 1965);

(B) 23 U.S.C. 206 (Recreational Trails Program); or

(C) the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) and subsequent amendments and reauthorizations; and

(2) include trails that tie neighborhoods, parks, and commercial areas together, bike and pedestrian trails, trail heads, interpretive waysides, picnic areas, and rest stops.

17 AAC 05.175. PROJECT NEEDS LIST AND EVALUATION (a) Projects nominated for a project needs list under 17 AAC 05.160 may, after public review and comment, be incorporated in the STIP. Except for projects classified in the National Highway System, classified under 17 AAC 05.170(c) in the Alaska Highway System, or exempt under 17 AAC 05.200, the department will evaluate and score projects regionally and statewide according to criteria applicable to each transportation program.

(b) For rural and urban streets projects classified under 17 AAC 05.170(d) (Community Transportation Program), the evaluation criteria are

(1) economic benefits resulting from the project;

(2) the project's effect upon health and quality of life;

(3) whether the project enhances the safety of the traveling public;

(4) whether the project improves intermodal transportation or lessens redundant facilities;

(5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;

(6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;

(7) whether the project will lower state maintenance and operation costs;

(8) environmental approval readiness;

(9) whether the project involves only surface rehabilitation;

(10) evaluation of cost, length, and the existing roadway's average annual daily traffic count;

(11) whether the project replaces deficient bridges;

(12) whether the project corrects deficient roadway width, grade, or alignment;

(13) the functional classification of the project;

(14) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and

(15) the degree of public support.

(c) For remote roads and trails projects classified under 17 AAC 05.170(d) (Community Transportation Program), in communities not connected to the continental road network by road or ferry, the evaluation criteria are

(1) economic benefits resulting from the project;

(2) the project's effect upon health and quality of life;

(3) whether the project enhances the safety of the traveling public;

(4) whether the project improves intermodal transportation or lessens redundant facilities;

(5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;

(6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;

(7) whether the project lowers state maintenance and operations costs;

(8) environmental approval readiness;

(9) whether the project improves access to water sources, landfills, sewage lagoons, sanitary waste disposal sites, health care, airports, subsistence harvest sites, or a river or ocean;

(10) whether the project preserves an existing facility;

(11) whether the project is a joint project with

(A) the Department of Environmental Conservation;

(B) the United States Department of Interior, Bureau of Indian Affairs;

(C) the United States Department of Health and Human Services, Indian Health Service;

(D) a tribal entity;

(E) a federal or state agency other than one identified in (A) - (C) of this paragraph;

(12) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges; and

(13) the degree of public support.

(d) For transit projects classified under 17 AAC 05.170(d) (Community Transportation Program), the evaluation criteria are

(1) economic benefits resulting from the project;

(2) the project's effect upon health and quality of life;

(3) whether the project enhances the safety of the traveling public;

(4) whether the project improves intermodal transportation or lessens redundant facilities;

(5) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs;

(6) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;

(7) environmental approval readiness;

(8) whether the project is necessary for system continuity;

(9) whether the project increases the level of service or capacity;

(10) whether the project is listed in the state air quality control plan, as adopted by reference in 18 AAC 50.030;

(11) whether the local transit agency has exhausted financing sources from the United States Department of Transportation, Federal Transit Administration;

(12) whether the project supports coordinated service or brokerage, involving the cooperation of two or more transportation providers, including transit organizations and non-governmental agencies, to provide transportation for the elderly and disabled;

(13) whether the project increases mobility for the disadvantaged; and

(14) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges.

(e) For intelligent transportation systems (ITS) classified under 17 AAC 05.170(d) (Community Transportation Program), the evaluation criteria are

(1) the degree to which the project furthers the goals of efficiency with reliability, safety and security, improvement of the quality of life, and the facilitation of transitions between modes of transportation;

(2) whether the project furthers the department's operations and efficiency;

(3) whether the project furthers integration between activities within the department or other ITS activities;

(4) whether the project furthers integration with activities external to the department conducted by state and federal agencies, municipalities, or private sector organizations;

(5) whether a municipality, another state agency, a federal agency, or a private sector organization has made a contribution to finance project development;

(6) whether a municipality, another state agency, a federal agency, or a private sector organization has made a commitment to finance maintenance and operations costs;

(7) the total amount of the project's capital cost and operating costs for five years of operations;

(8) the degree to which the project is consistent with state and national standards for system architecture;

(9) the degree to which the project is consistent with national standards for ITS hardware;

(10) the degree to which the project uses technology that has proven in past projects to be sustainable in an environment comparable to the environment in the state;

(11) whether the project has a clear and complete implementation and operational plan;

(12) whether the project technology expands ITS potential beyond the project's parameters;

(13) whether benefits from the project accrue to more than one of the department's regions; and

(14) the degree to which the project is consistent with and furthers goals and objectives of the statewide transportation plan adopted under AS 19.10.140 and 17 AAC 05.120.

(f) For projects classified under 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program), the evaluation criteria are

(1) the project's effect upon health and quality of life;

(2) whether the project enhances the safety of a user of a trail;

(3) whether a municipality, another state agency, or a federal agency has made a contribution to finance capital costs in the form of money or material contributions; for purposes of this paragraph, material contributions include land and building materials;

(4) whether a municipality, another state agency, or a federal agency has made a commitment to assume ownership or to finance maintenance and operations costs;

(5) departmental maintenance and operations costs and priority;

(6) whether the project bridges gaps or removes barriers between existing trail systems or provides interpretive or rest area continuity;

(7) whether the project is tied to a recreational, educational, or tourism event or activity, and the public's support of that event;

(8) whether the project has significance because of historical, cultural, natural, archaeological, or recreational considerations;

(9) whether the project stabilizes or renovates an historic transportation property;

(10) capital cost; and

(11) the degree to which the project exhibits innovation in the manner in which it addresses the project's challenges.

(g) Under the criteria set out in this section, and using the methodology set out in (j) of this section, members of each regional transportation planning staff shall evaluate and establish preliminary scores for projects nominated from that office's region for the project needs list. The department will establish minimum scores for each project category established under this section, that entitles the projects that score more than the applicable minimum score to be considered in the statewide evaluation of projects under this section.

(h) A project evaluation board (PEB), appointed by the commissioner, shall evaluate and score the projects, nominated and prioritized by each region, for the statewide project needs list and preliminary STIP using the methodology set out in (I) of this section. The PEB consists of

(1) a deputy commissioner from the department, or the deputy commissioner's designee;

(2) for a project other than one classified under 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program), the director of the department's division of statewide design and engineering services, or the director's designee;

(3) the director of the department's division of statewide planning, or the director's designee;

(4) the directors of the department's regional offices, or their designees; and

(5) for projects classified under 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program), the director of the division of parks and outdoor recreation in the Department of Natural Resources, or of a successor to that division within that department.

(i) To arrive at the final statewide list of projects for inclusion in the STIP, the department will select the projects with the highest scores in each program for inclusion in the STIP, based upon fiscal constraints, score, project development considerations, and the state's best interests.

(j) During an evaluation under (g) and (h) of this section, and 17 AAC 05.180, each evaluator shall score each project using the evaluation criteria applicable to each category of project. Each evaluator shall then determine the total project score by multiplying the individual scores by the weight of each criterion, and then adding the total for all criteria. The final project scores for each evaluator will be averaged to provide a mathematical score for all scorers. The average score for each project will be used for the purposes of evaluating projects for each category. The relative weight assigned the evaluation criteria for each category of projects and the mathematical techniques used to differentiate the projects, will be included in the project criteria notice issued under 17 AAC 05.160, and may be discussed during any public meeting on the project needs list and draft STIP.

(k) A meeting of the PEB under (h) of this section is a public meeting under AS 44.62.310. Notice satisfying the requirements of AS 44.62.310 will be given to interested persons not less than 14 days before the meeting. The department will make available at a

meeting under (h) of this section, for inspection by the public and interested persons, one set of the briefing materials provided to the PEB members.

(l) Before the department will consider a municipality's commitment to provide financing for construction or maintenance, or assumption of ownership, in the evaluation of a particular project under (g) and (h) of this section, or 17 AAC 05.180, the municipality shall authorize, by resolution or ordinance, the execution of an agreement with the state promising to perform the specified act. If the municipality breaches its obligation under that agreement before the advertisement of a project for construction, the department will reevaluate each project nominated by the municipality without consideration of the local contribution of money, or local ownership, with possible removal of the project from the STIP upon reevaluation. If the municipality breaches its obligation under that agreement after the advertisement of a project for bid, the department may proceed forward with construction to completion of the project. In the evaluation of other projects in the municipality in the succeeding six years after the breach, the department will not include any consideration of a local contribution toward the cost of construction, the cost of maintenance and operation of a facility, or ownership of a facility upon completion, until the municipality cures its earlier breach of an agreement executed under this subsection, to the department's satisfaction.

17 AAC 05.180. DRAFT STIP AND ADOPTION OF THE FINAL STIP (a) After the close of the review and comment period for the project needs list and preliminary STIP under 17 AAC 05.160, the department will consider the comments received on the projects included in the projects needs list and the preliminary STIP, new projects disclosed during that public review, and additional projects that the department may nominate. The department will develop a draft STIP, after considering the public comments received, will give notice under 17 AAC 05.160 of the completion of the draft STIP, and will allow for a public review and comment period of not less than 30 days after release of that notice.

(b) After the close of the review and comment period for the draft STIP under 17 AAC 05.160, the department will consider the comments received and prepare the final STIP. The final STIP is not in force until it is approved by the United States Department of Transportation under 23 U.S.C. 135(f) and 23 C.F.R. 450.220. Within five days after that approval, the department will give notice of the final STIP's adoption by publication in a newspaper of general circulation, by posting notice on the Alaska Online Public Notice System established under AS 44.62.175, and by written notice to interested parties.

17 AAC 05.185. STIP PROTESTS An interested person aggrieved with the evaluation of projects under 17 AAC 05.180 may, within 15 days after the release of a notice of adoption under 17 AAC 05.180, file objections with the commissioner. The commissioner may issue a decision on the objections. If the commissioner does not issue a decision on any timely filed objections within 45 days after their receipt, the objections will be considered denied and the project will be considered in the next evaluation cycle under 17 AAC 05.175. The commissioner's action sustaining or denying an objection is the final agency action on the issue raised. Absent a court order, a pending appeal does not stay the execution of the STIP.

17 AAC 05.190. FINANCIAL DATA (a) In the STIP, the department will include a financial summary that

(1) demonstrates an implementation strategy for the STIP;

(2) indicates resources that are reasonably available to carry out the STIP, by the categories set out in 17 AAC 05.175(b) - (f); and

(3) recommends, if necessary, additional financing strategies for needed projects and programs.

(b) Except for projects to which 17 AAC 05.200 applies, the department will annually allocate non-restricted federal apportionments, commencing in federal fiscal year 2003, to the classifications listed in 17 AAC 05.170(a) as follows:

(1) except as provided in (c) of this section, the department will allocate at least 48 percent to the National Highway System;

(2) the department will allocate at least eight percent to the Alaska Highway System;

(3) the department will allocate at least 33 percent to projects classified under 17 AAC 05.170(d) (Community Transportation Program);

(4) the department will allocate at least eight percent to projects classified under 17 AAC 05.170(e) (Trails and Recreational Access for Alaska (TRAAK) Program).

(c) In the state's best interests, the commissioner may reallocate money allocated under (b)(1) of this section to the National Highway System to the Alaska Highway System.

17 AAC 05.195. AMENDMENT OF THE STIP (a) At any time, the department may amend the STIP because of

(1) a change in the amount of money available for a project;

(2) emergency requirements;

(3) unanticipated delays in completing a project or a phase of a project;

(4) a change in the scope, cost, or development of a project; or

(5) the state's best interests.

(b) The department will make a major amendment of the STIP only after giving public notice with an opportunity to comment as required by (d) of this section. If the STIP amendment delays a project, the department will note the new years of activity for that project. The department will consider one or more of the following to constitute a major amendment of the STIP:

(1) the addition of a new project requiring an environmental assessment or an environmental impact statement under 42 U.S.C. 4332 (National Environmental Policy Act);

(2) a change to an existing project that, under 23 U.S.C. 135(f)(2)(C)(iii), requires an air quality conformity determination;

(3) a change in a project that requires a change in a previously approved environmental assessment or environmental impact statement under 42 U.S.C. 4332 (National Environmental Policy Act);

(4) the deletion of a project.

(c) The department need not give public notice under (d) of this section for an amendment of the STIP other than a major amendment as described in (b)(1) - (4) of this section.

(d) The department will provide notice of a proposed major amendment to the STIP by publication of a notice in a newspaper of general circulation in the geographic area of the project, and by written notice informing interested persons and any MPO affected by the amendment of the STIP. In the notice, the department will describe the amendment and the impact of the amendment upon the STIP, will solicit comments regarding the amendment, and will provide for a comment period on the proposed amendment of the STIP of not less than 30 days after the publication of the notice.

(e) An amendment to the STIP is not in force until it is approved by the United States Department of Transportation under 23 U.S.C. 135(D and 23 C.F.R. 450.220. If the amendment is subject to a review and comment period under (b) of this section, the department will prepare the final STIP amendment after the close of that period and after considering any comments received. The department will submit the final STIP amendment to the United States Department of Transportation for approval under 23 U.S.C. 135(f) and 23 C.F.R. 450.220. Within five days after that approval, the department will give notice of the final STIP amendment's adoption by publication in a newspaper of general circulation, by posting notice on the Alaska Online Public Notice System established under AS 44.62.175, and by written notice to interested persons.

17 AAC 05.200. MANDATORY AND OTHER CLASSES OF PROJECTS NOT SUBJECT TO SCORING (a) The following types of programs or projects may be included in any project classification of the STIP under 17 AAC 05.170, without following the scoring process under 17 AAC 05.175 or the allocation by program under 17 AAC 05.190 for a non-restricted federal apportionment:

(1) safety, infrastructure, and transportation security;

(2) projects to address air or water quality issues or other environmental concerns not part of any specific surface transportation project;

(3) research, planning, or data collection related to surface transportation;

(4) inspection and evaluation of surface transportation facilities;

(5) training and educational opportunities for staff and the public related to surface transportation issues;

(6) preventive maintenance or critical repair, and maintenance of surface transportation facilities;

(7) seismic retrofit of transportation bridges and features;

(8) civil rights matters not related to any specific surface transportation project;

(9) highway use tax evasion projects financed under 23 U.S.C. 143;

(10) projects specifically appropriated by the United States Congress;

(11) emergency requirements;

(12) management systems related to surface transportation systems;

(13) projects for the Alaska Railroad Corporation financed by the United States Department of Transportation, Federal Transit Administration or Federal Railroad Administration;

(14) any project or activity, related to surface transportation, the completion of which is considered to be in the state's best interest.

(b) The department may include projects listed in (a) of this section in an existing STIP as a minor amendment under 17 AAC 05.195(c).

(c) If a project is specifically recommended in a statewide transportation plan adopted under 17 AAC 05.150, the department may include that project in any project classification of the STIP under 17 AAC 05.170, without following the scoring process under 17 AAC 05.175. The department may include a project identified in a statewide transportation plan newly adopted under 17 AAC 05.150 in an pre-existing STIP as a minor amendment under 17 AAC 05.195(c).

17 AAC 05.985. BEST INTEREST When making a decision in the state's best interest, the department will exercise discretion to address, in furtherance of this chapter, factors of significance to the department in the matter under consideration. The department will document in writing the decision of a matter on the basis of the state's best interest and memorialize the factors of significance that affected the decision.

17 AAC 05.990. DEFINITIONS In this chapter, unless the context requires otherwise,

(1) "commissioner" means the commissioner of transportation and public facilities;

(2) "department" means the Department of Transportation and Public Facilities;

(3) "emergency requirements" means requirements to address circumstances that cause or threaten damage or destruction of a highway facility or a loss of life or property;

(4) "environmental approval readiness" means the extent to which a project has already received a required environmental approval under 42 U.S.C. 4332 (National Environmental Policy Act) or to which the department considers the project ready to receive that approval in an expeditious fashion;

(5) "functional classification" means the grouping of streets and highways into classes or systems according to the character of service they are intended to provide in relation to the total public road system;

(6) "highway rest stop or pullout" means an area alongside a roadway that allows a person to drive the person's vehicle off the roadway and park it a safe distance from the traveled portion of the roadway;

(7) "intelligent transportation system" or "ITS" means an integration of advanced sensor, computer, electronics, and communications technologies and management strategies to provide traveler information, or to increase the safety or efficiency of the surface transportation system;

(8) "interested person" means

(A) a person that has expressed an interest in or that the department believes is interested in transportation issues;

(B) a municipal government and its elected officials;

(C) a federally recognized tribe;

(D) a member of a board of an association that receives money under AS 29.60.140;

(E) the Trails and Recreational Access for Alaska Citizen's Advisory Board established for purposes of compliance with 23 U.S.C. 206(c)(2);

(F) a regional or village corporation organized under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);

(G) a federal or state land management agency;

(H) a federal or state environmental agency; and

(I) public or private provider of transportation services;

(9) "metropolitan planning area" means an area for which a metropolitan area plan has been developed under 23 U.S.C. 134 and 49 U.S.C. 5303 - 5306;

(10) "metropolitan planning organization" or "MPO" means an organization formed to meet the requirements of 23 U.S.C. 134 and 49 U.S.C. 5303 - 5306;

(11) "modes of transportation" means transportation accomplished by motorized vehicles, airplanes, rail, boats, ferries, bicycles, snow machines, and foot;

(12) "National Highway System" means the system of highways established under 23 U.S.C. 103;

(13) "non-restricted federal apportionment" means federal money allocated to the state under federal law that is not earmarked for any specific project or category of project;

(14) "PEB" means a project evaluation board appointed under 17 AAC 05. 175(h);

(15) "project needs list" means a continuously updated, database-generated list of projects nominated for inclusion in the next STIP;

(16) "public meeting" means an open house, a facilitated meeting, a workshop, a public hearing, a department-hosted radio or television call-in show, or another meeting format that the department considers most likely to encourage comments from members of the public who attend;

(17) "STIP" means the statewide transportation improvement program;

(18) "surface transportation," "surface transportation facilities," or "surface transportation system"

(A) means all systems used to move the traveling public and freight; and

(B) includes motorized vehicles, airplanes, boats, rail, bicycles, snow machines, and trails;

(19) "TIP" means an MPO's transportation improvement program;

(20) "transit" means a system for the movement of persons by motorized vehicle, rail, or ferry;

(21) "written notice" means notice that is delivered by FAX, mail, or electronic mail.

Editor's note: As of Register 166 (July 2003), the regulations attorney made a technical revision under AS 44.62.125 (b)(6), to the definition of "metropolitan planning organization" in 17 AAC 05.990.