



# Alaska Department of Transportation & Public Facilities

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# **DOT&PF Activities in Fish Streams**

- **Culverts (New)**
- **Culverts (Improvements)**
- **Culverts (Maintenance)**
  
- **Bridges (New)**
- **Bridges (Replacements)**
- **Bridges (Maintenance)**
  
- **Roadway Embankment Protection (Riprap Armoring)**
  
- **Stream Realignments (Airports, Roadways)**
  
- **Mitigation, Restoration, Enhancement**



# Agency Involvement

- Alaska Department of Fish and Game
- Alaska Department of Natural Resources
- Alaska Department of Environmental Conservation (Impaired Waters)
- Alaska Department of Environmental Conservation (APDES)
- Environmental Protection Agency (Large Projects)
- U.S. Fish and Wildlife Service
- NOAA Fisheries (NMFS) – Protected Resources Division
- NOAA Fisheries (NMFS) – Habitat Conservation Division
- U.S Army Corps of Engineers
- FEMA Flood Map Service
- State Land Managers (DNR, OHA)
- Federal Land Managers (USFS, USFWS, BLM, NPS)





# Existing Laws, Regulations, Agreements

- Clean Water Act, Section 401
- Clean Water Act, Section 404
- Clean Water Act, NPDES/APDES (Stormwater)
- Coastal Zone Management Act (Federal)
- Endangered Species Act (Terrestrial and Freshwater Species)
- Fish & Wildlife Coordination Act
- Magnuson-Stevens Fishery Conservation & Management Act (Essential Fish Habitat)
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Executive Order 13112, Invasive Species



# Existing Laws, Regulations, Agreements

## Agreements Specific to Fish Streams:

- DOT&PF/ADF&G MOA for Design, Permitting, and Construction of Culverts for Fish Passage
- DOT&PF/ADF&G MOA for Implementing Safe Passage of Anadromous and Resident Fish While Maintaining and Improving State Transportation Infrastructure
- MOU between DNR, ADF&G Regarding Reviews of Land and Water Use Activities

## Projects that impact fish streams in marine, intertidal, and estuaries must also comply with:

- Endangered Species Act (Marine)
- Marine Mammal Protection Act (MMPA)
- Marine Protection, Research, and Sanctuaries Act, Section 102/103
- Alaska National Interest Lands Conservation Act (ANILCA) - *Alaska Maritime Refuge*



# RSA's

## DOT&PF / ADF&G Reimbursable Services Agreements (RSA)

- RSA 2583602 Juneau Area Fish Habitat Permit Review & Services
- RSA 2583603 Kodiak, Bristol Bay, Aleutian Area Fish Habitat Permit Review & Services
- RSA2583601 Craig Area Fish Habitat Permit Review & Services
- RSA 2533061 Hoonah Airport Monitoring PJ 683003
- RSA 2582040 Fairbanks DOT&PF Project Review
- RSA2582041 Anchorage DOT&PF Project Review
- RSA 2581605 Soldotna (Kenai Peninsula) Area Fish Habitat Review Services
- RSA 2581604 Palmer (Mat-Su) Area Fish Habitat Review Services
- RSA 2581603 Anchorage Area Fish Habitat Review Services



# Permits in Fish Streams

**Title 16 Permit** – Required for activities below Ordinary High Water of an anadromous or resident fish stream. DOT&PF is required to obtain a Title 16 Fish Habitat Permit to construct a hydraulic project, use, divert, obstruct, pollute, or change the natural flow or bed of a specified river, lake, or stream, or use wheeled, tracked, or excavating equipment in the bed of a specified river, lake, or stream.

**Clean Water Act 404 Permit** - DOT&PF is required to obtain a permit from the USACE for any structure in any waters of the U.S. (such as embankment armoring, culverts, bridge piers or abutments).

**Essential Fish Habitat Assessment Concurrence** – DOT&PF must obtain concurrence from NOAA Fisheries (NMFS) per the Magnuson-Stevens Act for activities or structures in anadromous waters.





# NEPA & Fish Streams

- National Environmental Policy Act (NEPA) requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions, including
  - making decisions on permit applications,
  - adopting federal land management actions, and
  - **constructing highways and other publicly-owned facilities.**
- Using the NEPA process, agencies evaluate the environmental and related social and economic effects of their proposed actions. Agencies must also provide opportunities for public review and comment on those evaluations.
- Public Involvement is an integral component of the NEPA Process





# NEPA

- NEPA is not a permit
- NEPA is an “Umbrella” Law
- NEPA is a Procedural Law
- NEPA applies to all Federal Projects, including FHWA, FAA, & FTA PROJECTS
- NEPA applies to all State Projects if a Federal Permit, Concurrence, or other Federal Action is Required



# DOT&PF Current Process For Fish Streams

- Design Engineering staff provide general project concept to DOT&PF Environmental
- Environmental staff conduct desktop analysis of project site using in-house and published resources
- Environmental staff determine NEPA Class of Action (CE, EA, EIS)
- DOT&PF conducts site visit and develops Project Management Plan (design parameters, ROW concerns, environmental issues, etc.)
- Engineering staff develop preliminary design drawings
- Environmental staff begin public and agency scoping process and issue public notices
- Environmental staff initiate consultation with ADF&G, USFWS, NMFS
- Engineering and Environmental staff conduct additional site visits to refine design and conduct field studies
- Environmental staff and hydraulic engineering staff collaborate with ADF&G and other agencies to insure fish passage in design
- Environmental staff complete Essential Fish Habitat Assessment for agency review (ADF&G, NMFS, USFWS) and NMFS concurrence
- Design finalized, Permit applications submitted



## Environmental / Engineering Process

- DOT&PF Environmental identifies locations of catalogued fish streams in project footprint
- DOT&PF Environmental and Engineering staff conduct a field visit / site investigation
- DOT&PF Environmental may identify additional streams with suitable habitat that may require further study
- DOT&PF requests ADF&G staff determine which stream crossings will need to accommodate fish passage
- DOT&PF conducts additional studies (such as fish trapping) if ADF&G staff are unavailable
- DOT&PF (or its contractors) conduct a hydrologic and hydraulic study of the proposed crossings in order to develop a preliminary design.
- DOT&PF Environmental prepares Essential Fish Habitat Assessment (EFHA) with *adverse* or *no adverse* determination
- ADF&G, USFWS and NMFS provide comments and input to allow DOT&PF to receive concurrence on EFHA
- ADF&G, USFWS, NMFS are consulted regarding design. Agency field reviews may be conducted when appropriate
- If ADF&G and other agencies have no further issues or concerns, the design is finalized and a Title 16 permit application is developed by DOT&PF Environmental in collaboration with Regional Hydraulic Engineer





## Environmental / Engineering Process

- Prior to construction of any fish passage structures, DOT&PF hydraulics engineering staff conduct site visit to re-assess the design of a fish passage structure.
- ADF&G and other agencies are consulted on any minor changes to the proposed fish passage structure.
- DOT&PF hydraulics engineering staff continue to visit the project site at least once a week and at completion of each fish passage structure to assure design and permit requirements are met.
- DOT&PF always makes the project site available to ADF&G and other agency staff in order to verify DOT&PF is in compliance with permits.
- If DOT&PF, ADF&G or other agency notes that construction on a fish passage structure is out of compliance, work is halted and corrective actions are taken.



# Public Involvement

## DOT&PF Process

- Public Notice & Request for Comments at start of environmental scoping process
- Public Workshops for larger projects (dependent upon impacts)
- Public Informational Meetings for larger projects (dependent upon impacts)
- Public Notice Comment Period typically 30 days
- Public Notice Comment Period can range from 14 days for routine (maintenance) projects to 45-60 days for large projects (EA's & EIS's)

## USACE Process

- Public Notice and Request for Comments following Corps determination that permit application is complete
- Public Notice Comment Period typically 14 to 30 days



# Mitigation

- Impacts to anadromous waters routinely require mitigation to offset temporary or permanent loss of essential fish habitat (riparian cover, large woody debris, loss of sinuosity, etc.)
- Mitigation typically includes riparian habitat restoration or enhancement at project site
- Mitigation efforts are also routinely conducted away from actual project site:
  - Wrangell Airport Mitigation – Falls Creek and Anan Creek Fish Ladders
  - Hyder Salmon River Road Mitigation – Marx Creek Rearing Pond & Spawning Channels
  - Dyea Road Mitigation – West Creek Tributary Fish Pipe Improvements