

1. Environmental Procedures Overview

- 1.1. Introduction
- 1.2. Environmental Team – Structure, Roles and Responsibilities
- 1.3. Environmental Process
- 1.4. Additional Resources

Chapter Abbreviations/ Acronyms

AASHTO – American Association of State Highway and Transportation Officials

ATP – Authority to Proceed

CEQ – Council on Environmental Quality

CE – Categorical Exclusion

CFR – Code of Federal Regulations

COA – Class of Action

DOT&PF – Alaska Department of Transportation & Public Facilities

EA – Environmental Assessment

EIS – Environmental Impact Statement

FHWA – Federal Highway Administration

FTA – Federal Transit Administration

FOIA – Freedom of Information Act

HPCM – Alaska Highway Preconstruction Manual

Manual – Alaska Environmental Procedures Manual

MAP-21 – Moving Ahead for Progress in the 21st Century Act

MOU – Memorandum of Understanding

NEPA – National Environmental Policy Act

PCE – Programmatic Categorical Exclusion

PDA – Project Development Authorization

PE – Preliminary Engineering

PIS – Project Information Sheet

PMP – Project Management Plan

PS&E – Plans, Specifications, and Estimate

REM – Regional Environmental Manager

ROW – Right-of-Way

SAFETEA-LU – Safe, Accountable, Flexible, Efficient Transportation Equity Act; a Legacy for Users

SEO – DOT&PF Statewide Environmental Office

USC – United States Code

1.1. Introduction

The 6004 Program began in 2009 under a Memorandum of Understanding (MOU) between the Federal Highway Administration (FHWA) and the Department of Transportation and Public Facilities (DOT&PF) assigning certain environmental responsibilities on qualifying projects to DOT&PF. The 6004 Program is limited to projects meeting the criteria of certain categorical exclusions (CEs). The majority of DOT&PF projects are CEs and a majority of those CEs meet the 6004 program requirements.

Specific details of the 6004 Program are discussed later in this chapter.

1.1.1. Purpose

The *Alaska 6004 Program Environmental Procedures Manual* outlines the environmental process to follow for 6004 projects. It is only a starting point and should be used in conjunction with other resources noted later to prepare compliant, concise, and accurate environmental documents.

The environmental procedure for projects processed under the 6004 MOU is different than that of projects that do not qualify for processing under the 6004 MOU (non-assigned projects). Refer to the *Alaska Highway Environmental Procedures Manual* for the environmental processes to follow for non-assigned projects.

All federally funded projects, including 6004 projects, are subject to the requirements of the National Environmental Policy Act (NEPA). As a participant in the federal highway program, DOT&PF must comply with NEPA and other applicable federal rules or risk losing federal project funding and increasing exposure to legal liability for non-compliance. Under the 6004 MOU, DOT&PF is legally liable for its decisions on 6004 projects.

1.1.2. Environmental Regulations and 6004 Program Background

On January 1, 1970, President Nixon signed into law NEPA which established a national policy on the environment. Every federal agency within the Executive Branch is responsible for implementing NEPA and each is required to develop its own regulations to implement NEPA. The Council on Environmental Quality (CEQ) has the task of ensuring that federal agencies meet their obligations under NEPA. All federal agency NEPA regulations are reviewed and approved by the CEQ.

FHWA and the Federal Transit Administration (FTA) issued regulations [[23 CFR 771](#)] to provide direction for applying NEPA to highway and transit projects. FHWA also issued guidance addressing those regulations [Technical Advisory \(T.6640.8a\)](#), [Guidance for Preparing and Processing Environmental and Section 4\(f\) Documents](#). This Technical Advisory provides detailed information on the content and processing of environmental documents. FHWA and the FTA have also issued regulations to address additional environmental requirements related to the project development process [[23 CFR 772](#), [774](#), [777](#)].

In 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ([SAFETEA-LU](#)) was signed into law. Section 6004 of SAFETEA-LU, codified in [23 USC 326](#), allows FHWA to assign responsibilities and liabilities for making project specific NEPA CE determinations to a state. This responsibility is transferred through a cooperative MOU which dictates the terms and conditions of assigning certain CE determinations to a state. In 2012, the Moving Ahead for Progress in the 21st Century Act ([MAP-21](#)) expanded FHWA's authority to assign NEPA determinations to all states.

On September 22, 2009, DOT&PF and FHWA signed a 6004 MOU, authorized by 23 U.S.C. 326 in which FHWA assigned, and DOT&PF assumed, responsibility for determining whether a proposed federal-aid action can be designated as a CE (6004 MOU). Under the 6004 MOU, DOT&PF was also assigned FHWA's responsibilities for consultation with all federal resource agencies and for compliance with all applicable federal regulations. The 6004 MOU was renewed on September 20, 2012 with minor changes and is currently in effect.

Under the MOU, DOT&PF functions as the lead federal agency for NEPA and other applicable environmental requirements. By assuming these federal responsibilities, DOT&PF gains efficiencies in environmental processing and project delivery for 6004 projects.

However, this also makes Alaska, rather than FHWA, legally liable and responsible for its decisions and actions. In the 6004 MOU, the State of Alaska waived its 11th Amendment sovereign immunity against actions brought by its citizens in federal court. For 6004 projects, DOT&PF is subject to the same requirements that apply to FHWA when it carries out responsibilities under NEPA. This includes compliance with any interagency agreements, MOUs or other agreements that relate to the environmental process.

The processes outlined in this manual meet FHWA regulations [[23 CFR 771](#)] and CEQ regulations [[40 CFR 1500–1508](#)], as well as other applicable regulations [i.e. [23 CFR 774](#), [36 CFR 800](#)], executive orders, relevant federal guidance, and negotiated agreements between DOT&PF and other agencies.

DOT&PF is responsible for conducting all necessary environmental studies and preparing all environmental review documents for 6004 projects.

This involves an assessment of the project's effect on natural, cultural, recreational, historic, or other resources. There are a wide variety of resource effects that are assessed as part of this process, including effects on floodplains, wetlands, endangered/threatened species, historic and archeological sites, private properties, businesses, communities, minority or low income populations, air quality, and wildlife habitat.

An internal review and approval process has been put in place to ensure full compliance with all environmental requirements on 6004 projects.

1.2. Environmental Team – Structure, Roles, and Responsibilities

The DOT&PF environmental team has personnel at the three regions (Central, Northern, and Southeast) and at the statewide level (Figure 1-1).

Regional and statewide environmental personnel work as a team to ensure projects meet environmental requirements. The goals of the overall environmental team are aligned to ensure that DOT&PF is in compliance with all applicable environmental rules and regulations.

Most regional and statewide environmental personnel work on both 6004 and non-assigned projects and the roles and responsibilities outlined below apply to all projects.

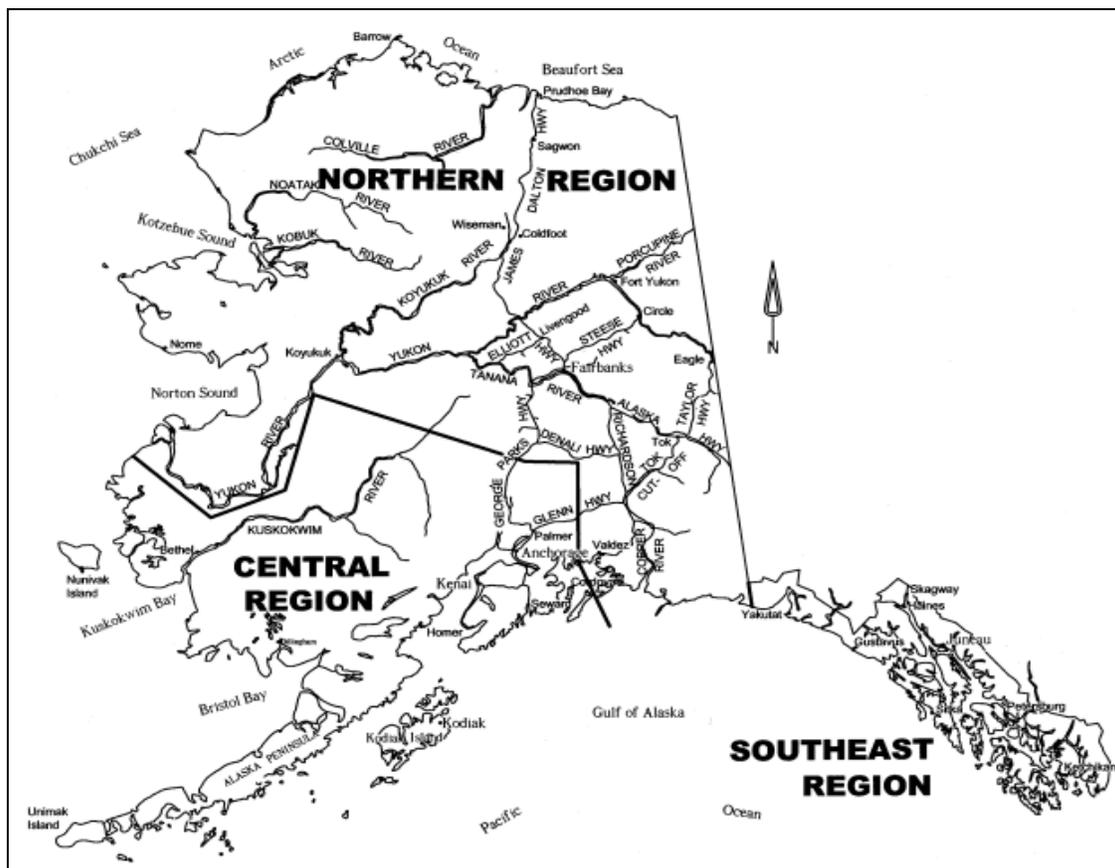


Figure 1-1
DOT&PF Regions

1.2.1. Environmental Analysts

In each region and at the statewide level, environmental analysts perform numerous functions in the environmental documentation and permitting process. Job functions of an environmental analyst may range from conducting a field analysis (e.g., wetlands delineation) to creating an environmental document (e.g., an Environmental Assessment). The majority of project-specific environmental documentation and permitting work is conducted by environmental analysts in the regional offices. There are regional personnel who specialize in cultural and archaeological resources, as well as statewide staff focused on stormwater permitting and compliance.

1.2.2. Regional Environmental Managers

The regional environmental managers (REMs) have direct oversight of and responsibility for the environmental requirements of projects developed within their regions.

Examples of the REM's responsibilities include:

- Supervising or supporting regional environmental staff
- Supervising preparation of environmental documents (providing edit/review functions)
- Approving Programmatic Categorical Exclusions (PCEs) and Programmatic Approvals
- Monitoring compliance of environmental commitments and permit stipulations
- Coordinating projects with the public and resource agencies
- Serving as the regional point-of-contact for emergency permits
- Serving as the regional point-of contact for FHWA
- Serving as the regional point-of-contact for state and federal resource agencies
- Serving as the regional point-of-contact with the statewide environmental office on all environmental matters
- Recommending compensatory mitigation

1.2.3. Statewide Environmental Manager

The Statewide Environmental Manager is responsible for managing environmental and regulatory issues at the statewide level and ensuring DOT&PF implements consistent environmental policies and procedures.

Examples of the Statewide Environmental Manager's responsibilities include:

- Providing oversight for the 6004 Program
- Providing support and guidance to REMs on environmental and permitting issues
- Reviewing and commenting on Environmental Assessments (EAs) and Environmental Impact Statements (EISs)
- Conducting and coordinating environmental and permit training
- Facilitating conflict resolution between DOT&PF and resource agencies
- Identifying and implementing measures to streamline environmental and permitting processes
- Serving as the point of contact for the Army Corps of Engineers concerning Section 404 and Section 10 requirements
- Representing DOT&PF on statewide interagency task forces and working groups
- Directly managing an interdisciplinary team of environmental professionals

1.2.4. Statewide NEPA Manager

Statewide NEPA Managers are responsible for providing quality assurance and oversight for 6004 projects and the 6004 Program. They act as regional points-of-contact regarding environmental processing concerns for 6004 projects. They also approve environmental documents for certain 6004 projects (see Chapter 3).

1.3. Environmental Process

This section provides a brief overview of the steps involved in project development and how they are related to the environmental process. FHWA's project funding authorization sequence requires NEPA Environmental Document Approval prior to finalizing project plans and proceeding to construction.

1.3.1. Project Development

For a federally-funded project to be developed, it must have an approved Project Development Authorization (PDA) and Authority to Proceed (ATP).

The PDA process includes the development of an initial project funding request initiated by the engineering manager based on input from the planning, design, and environmental sections [[HPCM, section 420.1.1](#)].

The project funding request includes the following information:

- The requested ATP level and funding requirements by phase and year
- A project map showing the limits and approximate total length of the project
- A project management plan (PMP) (The PMP is required for all projects but submitted with the initial funding request only on projects developed under the "One Step ATP Process")
- A Project Information Sheet (PIS) signed by the engineering manager and the REM

The REM must coordinate with the Statewide NEPA Manager in order to determine the class of action and 6004 applicability of the project. This is done by submitting a [Class of Action \(COA\) Consultation Form](#) to the Statewide NEPA Manager (see Chapter 2). After consultation via the COA, the REM will either complete and sign page two of the PIS for a 6004 project, or consult with FHWA for a non-assigned project.

Once all of the steps of initial project funding are complete an ATP is granted. The ATP provides authorization from FHWA to proceed with the different stages of project development.

The different project ATP authorizations are:

- Planning
- Preliminary Engineering (PE) through Reconnaissance Engineering
- PE through Environmental Document Approval
- PE through Final Plans, Specification and Estimate (PS&E)
- Right of Way (ROW) Appraise and Acquire
- Utility Relocation Agreements
- Construction

Most new projects initially receive ATP for PE through Environmental Document Approval. Some projects can be authorized through Final PS&E using the "One Step ATP Process" [[HPCM, section 420.1.2](#)]. Consult the *Alaska Highway Preconstruction Manual* (HPCM) for a more in-depth discussion on project development.

1.3.2. Preparing Environmental Documents

Environmental document approval is a mandatory step in the delivery of every federally funded project. To comply with NEPA and other federal laws and regulations, environmental documents must accurately describe multiple aspects of the project, such as:

- Project purpose and need
- Project description
- Environmental consequences
- Environmental commitments and mitigation measures
- Public and agency involvement

The American Association of State Highway and Transportation Officials (ASHTO) report [Improving the Quality of Environmental Documents](#) offers three core principles for creating quality NEPA documents:

1. Tell the story of the project so that the reader can easily understand what the purpose and need of the project is and describe the strengths and weaknesses of any alternatives, if applicable.
2. Keep the document as brief as possible by using clear, concise writing, an easy-to-use format, effective graphics and visual elements, and discussion of issues and impacts in proportion to their relative importance.
3. Ensure that the document meets all legal requirements in a way that is easy to follow for regulators and technical reviewers.

It is important to keep these principles in mind while developing environmental documents. Remember that environmental documents are public documents that should be written in a format that is understandable to the non-technical reader.

1.3.3. Environmental Project File

The environmental project file should include the environmental document and all supporting documentation associated with the environmental analysis, such as:

- Relevant project related correspondence and emails
- Technical information and reports
- Field surveys and notes
- Other types of supporting information, such as maps, typical sections, permits and plans

An organized environmental project file will facilitate efficient project management and reduce the risk of overlooking important environmental requirements.

Some of the documents in the environmental project file will serve as part of the legal record illustrating compliance with federal laws. The information could also be subject to public records laws, such as the Freedom of Information Act (FOIA) and the Alaska Public Records Act. The environmental project file is subject to periodic program reviews by FHWA and the Statewide Environmental Office.

DOT&PF does not have department-wide standards for the format of environmental project files. Each region is responsible for developing its own file organization structures. The AASHTO Center for Environment Excellence published a Practitioners Handbook titled [Maintaining a Project File and Preparing an Administrative Record for a NEPA Study](#) which provides useful information on this subject.

1.4. Additional Resources

This manual should provide a strong basis for understanding the environmental process. There are external resources available which provide more detailed information on all facets of the NEPA process and various types of environmental analyses. Each chapter in this manual provides a listing of additional resources.

[Statewide Environmental Office \(SEO\) Homepage](#)

SEO website with links to environmental document resources and various environmental impact category resources.

[FHWA Environmental Review Toolkit](#)

FHWA environmental review and NEPA related information

[Significance of Impacts discussion](#)

FHWA discussion on impacts and significance

[SAFETEA-LU](#)

Act text and summaries

[MAP-21](#)

Act text and summaries

[CEQ on NEPA](#)

CEQ perspective and guidance on NEPA

[FHWA Environmental Legislation](#)

FHWA summary of environmental legislation affecting transportation

[AASHTO Practitioner's Handbooks](#)

A series of informative guides on environmental topics

[Government Printing Office](#)

This website can be used to search for the text of federal regulations