

9. Contract Administration in the Field

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9.1. Relations with the Contractor

The key to a successful project is good communication. Having the Project Engineer as the single point of contact on a project gives them the authority needed to support good communication. In dealing with contractors and their organizations, the Project Engineer should cooperate as shown by the partnering concept (Section 3.9), and should convey to the project staff that they are working with the contractor to secure the best possible finished product; the attitude of the project staff should also reflect this cooperation. The prompt preparation and processing of contract change documents and progress payments exemplifies this spirit.

When the contractor requests information or a clarification, the project staff should respond promptly to the request. If the Project Engineer is unable to respond to a contractor's request for clarification on information, the Project Engineer should immediately seek the assistance of the Group Chief/PM or one of the support groups, and keep the contractor advised of the status of the request. In general, the Project Engineer and the project staff should do everything necessary to enable the contractor to work to their

benefit and without delay, but they should not furnish any services that the contractor is responsible for providing.

If the communication link between the contractor and project staff is threatened, the staff member should ask the Project Engineer for advice, or, as a last resort, intervention. If the Project Engineer runs into a similar situation, they should turn to the Group Chief/PM for assistance.

If the Project Engineer receives claims for damage to property or for injuries allegedly resulting from the contractor's operations, the Project Engineer should refer the claims to the contractor. If claims are received for money owed by the contractor for material, supplies, or wages on the project, the Project Engineer should provide the claimant with the name of the contractor's bonding agent and a copy of the payment bond, and should advise the claimant to read AS 36.25.020(c) for further information; wage claimants should also be referred to the Alaska Department of Labor, Wage and Hour Division.

9.2. Contractor Surveying

Under terms of the contract, all construction surveying is the contractor's responsibility. The Department is responsible for establishing the horizontal and vertical control that the contractor will use for construction staking; this control is usually established during the design phase of the project. On projects that have spent a number of years undergoing design, the control survey may be a bit ancient by the time the contractor's surveyors arrive at the site. Because this is usually the first construction activity under way on the project, the Project Engineer should monitor this initial survey effort closely and be alert for any errors that may show up in the horizontal and vertical control. If the contractor discovers any problems with the survey control, the Project Engineer, after consulting with the Group Chief/PM and the design engineer, should take immediate action to correct the control data or to adjust the lines and grades of the finished structure.

The contract provides that contractor surveying which the contractor uses for the computation of pay item quantities is subject to random spot checks by the Project Engineer. The Project Engineer should spot check at least 5 percent of these surveys and should also spot check note reductions and other survey work

for accuracy. If the Project Engineer discovers errors, they should perform additional spot checks and bring the matter to the contractor's attention. The Project Engineer or project staff will take all survey notes for final quantities and completely check them.

9.3. Contractor's Equipment

When the contractor first mobilizes equipment to the project site, and as each additional piece of equipment arrives at the site, the Project Engineer and project staff should inventory the equipment. The contract, with a few exceptions, requires only that the contractor provide an equipment spread that is capable of completing the contract within the contract time; the choice of equipment is left up to the contractor. Contractor vehicles and equipment that require licensing must be licensed in Alaska at all times during their use.

Certain pay item specifications, primarily those dealing with asphalt paving, spell out in some detail the equipment (and its condition) that the contractor is to use; the Project Engineer is responsible for documenting the equipment and its condition. If the Project Engineer notices any deficiencies in the specified equipment, the Project Engineer should immediately bring the deficiency to the contractor's attention. The contractor should not allow specified equipment that does not meet contract requirements to work on the project until the contractor brings the equipment into compliance with the contract.

When the Project Engineer and project staff inventory equipment, they should gather basic information on each piece. Information should include the classification, make, model, year of manufacture, horsepower, attachments and optional features, capacity, engine fuel, serial number, and contractor's number. These data will help the Project Engineer establish a rental rate for each piece of equipment, if necessary. The project staff should use still photographs and videotape to document the initial condition of the contractor's equipment.

9.4. Legal Loads

The Project Engineer may permit oversize and overweight vehicle movements within the project limits provided the contractor submits a written request and an acceptable Traffic Control Plan. The Traffic Control Plan must describe:

- how and where overweight or oversize vehicles will be used

- Each vehicles axle spacing, gross axle weights, and tire widths
 - Type of material or equipment being hauled
- Weight restrictions still apply to all vehicles and equipment within the project limits, when hauling over:
- base course, surface courses, or structures that will remain, or become part of the finished roadway
 - a structure that will be removed later, but is a route the public currently uses
 - a structure that will be removed later, but is spanning over a route or other areas the public currently uses

Detailed analysis of structures and weight restrictions can be performed by the Division of Measurement Standards and Commercial Vehicle Enforcement (MSCVE) or the Bridge Section.

Temporary crossing designed by the contractor may support construction and public loads if the crossing is designed to support those loads.

Beyond the project limits, size and weight limitations apply even though the highway may be a designated haul route. The MSCVE issues oversize and overweight permits for travel outside the project limits.

The Project Engineer and the project staff should be familiar with the size and weight limitations for the vehicles and equipment on their project, and with the effects of overweight operations on the project. Work sheets are available for calculating the maximum legal load for any given vehicle.

Where contractor-furnished weigh people operate the scales, the Project Engineer should monitor the weight tickets to make certain that the weigh people comply with the load limits. If enforcement of legal load limits becomes a problem, the Project Engineer should contact the Group Chief/PM. For further information on vehicle loads and permitting of nonlegal loads, consult 17 AAC 25 and the Department's *Alaska Oversize and Overweight Permit Movements* manual.

9.5. Site-Specific Hazard Awareness Training

In compliance with 30 CFR 46.11, the contractor's operator or commercial operator of the sand and gravel surface mine (materials source) shall provide Site-Specific Hazard Awareness Training for all the

Project Engineer's staff (non-miners) before beginning any operations in the surface mine. The training must be provided for each surface mine that is used to supply processed aggregates. A competent contractor's operator must provide the training in accordance with the operator's written training plan approved by the Mine Safety and Health Administration (MSHA). The training shall cover:

- Site-specific health and safety risks
- Recognition and avoidance of hazards
- Restricted areas
- Warning and evacuation signals
- Evacuation and emergency procedures
- Other special safety procedures
- A site tour

The Project Engineer's staff must sign the Visitor's Log Book after completing the training to indicate that training was provided.

According to the Compliance Guidelines for MSHA Part 46.1, Scope: Government Officials visiting a mine site generally are not required to receive Part 46 training. However, MSHA expects those government agencies whose personnel visit mine sites will ensure that their employees are provided with appropriate personal protective equipment, and receive adequate instruction and training. Where training is not provided, an experienced miner should accompany such government officials.

9.6. Asbestos in Aggregates

The DOT&PF Naturally Occurring Asbestos (NOA) program was established in 2012 by the Alaska state legislature. The law provides immunity under state law for the landowners, extractors, suppliers, transporters, and contractors for certain actions or claims arising in connection with the use of gravel or aggregate material containing NOA.

On projects with known NOA every person working in the project area must take the T2 Asbestos Awareness Training. All workers in the project area must follow the approved project site specific plan.

A list of best practices for NOA materials is posted at: <http://www.dot.state.ak.us/stwddes/desmaterials/noa.shtml>

If NOA materials are found during construction immediately notify the Chief Engineer and stop work in the affected area. A site specific plan must be

approved by the Chief Engineer before work can resume in the NOA area.

9.7. Airport Construction Safety

Airport safety requirements are described in FAA Advisory Circular (AC) 150/5370-2F, Operational Safety on Airports During Construction.

A Construction Safety and Phasing Plan (CSPP) is developed by the Department or the airport operator. The CSPP is normally submitted to FAA for approval during the design phase. The CSPP and any changes to the CSPP must be approved by FAA before implementation. The contract should comply with the requirements of the CSPP.

The contractor must submit a Safety Plan Compliance Document (SPCD) to demonstrate how they will comply with the CSPP. The SPCD may provide additional details (such as key personnel, construction phasing or equipment) that were not known at the time the CSPP was developed. The Project Engineer should review the SPCD, and approve the SPCD when it is in compliance with the CSPP.

Each contract for an airport improvement that affects an aircraft operational area (runway, taxiway, aircraft parking apron, and other facilities that adjoin these areas) has a special provision that specifically addresses that airport's traffic and safety requirements. The contract should also include drawings that depict runway and taxiway safety areas, vehicle movement setback lines, designated haul routes, obstacle free zones, temporary lighting requirements, and construction phasing information.

The two principal safety concerns when a contractor works on or adjacent to existing airport operational areas that are open to traffic are:

1. Marking the open portions of those operational areas, so moving aircraft know clearly where to taxi, takeoff, and land
2. Keeping construction equipment and construction project workers separated from moving aircraft

The contract requirements for airport traffic control and safety vary considerably from site to site, but generally include:

- Minimum length and width requirements for the runways

- Marking the closed portions of the runways or taxiways
- **Strategic Event Coordination (SEC)**
- Filing Notices to Airmen (NOTAMs) that describe the current status of the runway with the appropriate FAA Flight Service Station
- Providing plainly visible markings delineating the open portion of the runways (thresholds and edges), taxiways, and parking aprons from construction areas
- Aircraft frequency radio contact requirements
- Airport security requirements
- Scheduling or work sequencing requirements
- Coordination requirements

9.7.1 Notification Before Work

The Project Engineer shall write a letter to the appropriate FAA Flight Service Station (FSS), and send a copy to the FAA project manager, before the contractor begins work on an airport project. The letter should give the FAA/FSS basic information on the construction project including:

- The scope of work
- The duration of the contract
- The name of the contractor
- The Project Engineer's telephone number

Copies of the letter should be sent to the Regional Airport Safety and Compliance Officer, the DOT&PF airport manager, airport maintenance contractor (if appropriate), other adjacent FSSs, and the contractor.

Prior to starting work, the Project Engineer and the contractor's superintendent should meet with the airport manager and/or Regional Airport Safety and Compliance Officer and a local FAA tower or FSS representative, and air carrier representatives to establish communications, discuss the proposed work, review the **CSPP and SPCD**, and ensure that everyone fully understands the scheduling of construction activities in conjunction with aircraft operations.

9.7.2 Strategic Event Coordination (SEC)

Prepare and submit a Strategic Event Coordination form (FAA Form 7460-1, Notice of Airport Construction or Alteration) when required. The SEC form must be submitted to FAA at least 45 days prior to the strategic event. These are events that last for

greater than 24 hours, or for 4 hours for consecutive days, and they include:

- NAVAID Shutdowns
- Full or partial runway closures
- Significant taxiway closures

9.7.3 Notices to Airmen (NOTAMs)

See Section 9.16 and FAA Advisory Circular 150/5200-28D for more information.

Prepare NOTAMs according to the Advisory Circular and the contract. The airport manager or authorized representative will review and sign the NOTAMs form, and will submit NOTAMs to the FAA.

Each time there is a change in an aircraft operational area (length, width, location, surface condition, lighting, personnel and equipment in the vicinity), a new NOTAM should be prepared and older NOTAMs may have to be cancelled. Only FAA may issue NOTAMs for navigation facilities and approach lights.

When work on the project is completed or is suspended for the season, the last construction NOTAM in effect should be cancelled or a new one issued to convey current runway, taxiway, and parking apron conditions to the FAA.

9.7.4 Radio Communications

At airports equipped with an Air Traffic Control Tower (ATCT), all movement of personnel, vehicles and equipment on open/active runways or taxiways are under direct radio control of the ATCT during hours of ATCT operation. When the ATCT is closed, see the following paragraphs.

At airports equipped with only an FSS, all movements on open/active runways or taxiways shall be coordinated with the FSS by radio on the airport's Common Traffic Advisory Frequency (CTAF).

At non-towered/non-FSS on-field airports, coordinate operations on the open/active runway or taxiway with the appropriate FSS on the airport's Remote Communications Outlet (RCO).

Using the CTAF, vehicle operators will be required to notify all aircraft using the airport of their location on the runway. This will require radios capable of scanning multiple frequencies. Give all aircraft the right-of-way, and undertake all construction operations and movements on the airport using common sense and caution. All vehicles operating

under these conditions should be equipped with radios containing the proper frequencies and operating amber beacons. If a radio isn't available in the vehicle, then the vehicle should be escorted by a properly marked vehicle capable of communicating on the proper frequencies or by a trained flagger using handheld radios.

9.8. Highway Traffic Control and Safety

Implementation of the Traffic Management Plan (TMP) allows for the safe passage of traffic through a highway construction work zone. Section 3.10 covers TMPs and their review and acceptance in detail.

Refer to the contract for traffic control devices payment details.

Prior to the contractor beginning work on the project, the Project Engineer should send a letter to the law enforcement entities having jurisdiction in the area (police, fire and EMT), advising them of the pending construction project and of the project limits, the work schedule, the names and phone numbers of the contractor and worksite traffic safety supervisor, and the Project Engineer's contact information. The Project Engineer should request the cooperation of law enforcement in controlling traffic during construction and should request that they notify the project field office of any accidents that occur within the construction work zone. The Project Engineer should also request that the law enforcement entity provide the project office with copies of all those accident reports.

When there is an agreement for additional traffic enforcement within the project limits, the Project Engineer or regional traffic control coordinator should specify the days and times for law enforcement to be present (see Section 3.10). It is important that project staff also document the dates that law enforcement work in the project limits, using an Inspector's Daily Report or the Traffic Law Enforcement Presence Log, Form 25D-108.

A TCP must be approved before construction starts. See ACM 3.10 for more information. All traffic control devices required by the approved TCPs, in and around the active construction area, must be in place before construction starts, and must be maintained during construction. Project staff should monitor the TCPs. The Project Engineer is responsible for the contractor's compliance with all requirements of the TCPs, including the daily measurement of pay item quantities.

Each day, project staff must document in an Inspector's Daily Report (Section 10.3) or diary, that traffic control devices were checked and whether or not they were in compliance with the approved TCPs.

Under the contract, the responsibility for checking, placing and maintaining the traffic control devices rests with the contractor and must be in accordance with Section 643 of the *Highway Specification*.

Report device counts each day using the Traffic Control Signs and Devices Daily Report, Form 25D-103. It is signed and dated by both the Contractor's Representative and the Project Engineer's Representative.

The contractor must report each day using the Traffic Control Daily Review, Form 25D-104. It is signed and dated by the Contractor's Representative. The contractor's daily documentation on Form 25D-104 should include the TCP numbers in effect, the details of any variations from the approved TCPs, and indicate if any devices need to be repaired or replaced. Dimensional sketches, still, and video photography may be used to clarify the daily entries to document traffic control.

During construction, TCPs may require modification to meet changed construction schedules or conditions. A major revision to the TCP changes the basic application of the approved plan; The Project Engineer and either the region's Traffic and Safety unit, or the Traffic Control Coordinator of the Construction Unit, will review major revisions. A minor revision is one that does not change the basic concept of the plan and can be reviewed by the Project Engineer. When the TCP is found to be acceptable, the Project Engineer will notify the contractor in writing.

Report any vehicular accidents within the project limits, or within the construction work zone (between construction warning signs), or involving traffic in a queue backed up from work with the project limits, on the Work Zone Accident Report, Form 25D-123 (Also see Section 6.2). Report accidents to the regional traffic and safety engineer, within 10 calendar days of occurrence. Submit a copy of the police report and other pertinent information upon receipt.

The *Alaska Traffic Manual* contains additional information on construction work zone traffic safety.

9.9. SWPPP & HMCP Implementation and Monitoring

See Section 3.11 for plan review requirements.

9.9.1 Signature Authority and Personnel Qualifications

When a SWPPP is required, the contractor must delegate responsibility and signature authority to a superintendent. The superintendent may delegate work to a SWPPP manager. The superintendent, and SWPPP manager, must have current certification as an Alaska Certified Erosion and Sediment Control Lead (AK-CESCL), or other training allowed by the contract. The Project Engineer should verify that the SWPPP documents the contractor's personnel qualifications (certifications).

The Regional Director will delegate responsibility and signature authority to the Project Engineer. The Project Engineer, the Storm Water Inspectors, and the Regional Storm Water Specialist must have a current certification as an Alaska Certified Erosion and Sediment Control Lead (AK-CESCL), or other acceptable training that meets the EPA Consent Decree and CGP requirements for qualified personnel. The Project Engineer and Storm Water Inspectors must send their certifications to the Superintendent for inclusion in the SWPPP.

When there is personnel turnover or a person assumes the duties of someone on leave: the new person must be certified, and a copy of their AK-CESCL certification must be entered into the SWPPP, before they can inspect or sign SWPPP documents.

9.9.2 Duties of Project Engineer and Inspector

The Project Engineer and the Storm Water Inspectors must be familiar with the contractor's SWPPP (Section 3.11.), HMCP, the contents of the Department's *Storm Water Pollution Prevention Plan Guide*, Clean Water Act consent decree and the CGP.

The Department and the contractor are co-permittees for the project SWPPP and HMCP. A violation of permit requirements may result in a monetary penalty for the Department and the contractor.

In addition to the inspections required under the CGP, the Project Engineer and project staff must keep daily watch on the contractor's operations and BMPs. Project staff must immediately report to the Project Engineer observations of inadequate BMPs or pollutant discharges. The Project Engineer will report

them to the superintendent or SWPPP manager and ensure that corrective action is taken within applicable deadlines.

The Project Engineer must become familiar with the project site, and be alert to instances where the SWPPP is not adequate or where the contractor is not following the SWPPP. If there are instances of inadequate BMPs or noncompliance with the SWPPP, EPA Consent Decree or CGP, direct the contractor to take corrective action. Ensure that the contractor updates the SWPPP regularly and completes required record keeping. Ensure that SWPPP amendments are approved by an AK-CESCL certified individual.

9.9.3 Reporting non-compliance to DEC

If the contractor reports to the Project Engineer, or if the project staff observe: an incident that is (1) non-compliant with the CGP and (2) which may endanger health or the environment; then the Project Engineer must immediately report it to the Regional Construction Storm Water Specialist (or equivalent environmental position).

The Storm Water Specialist will determine whether the incident is reportable under the Standard Permit Conditions of the CGP and if so, will make a verbal report to DEC and EPA (per Consent Decree), on behalf of the Department. The verbal report must be made within 24 hours of the first discovery of the incident. They must file a written report with the two agencies within five days of the first discovery of the incident.

The contractor is also responsible for reporting the same incident to DEC and other agencies as required by law. If possible the Department and contractor should coordinate reports to ensure a consistent explanation. However the contractor may file their own report even if the Department decides the incident is not reportable.

It is best if the contractor's SWPPP Manager or Superintendent co-sign the Department's electronic written report. If the contractor doesn't co-sign the Department's report, they must file their own written report with DEC.

9.9.4 Public Notice, Forms and Permits

Ensure the contractor has posted public notices, as required in the contract.

The following plans, forms or permits are included in the contractor's SWPPP documents:

- SWPPP formatted per DOT&PF SWPPP template – contractor’s document that requires approval from the Department
- 25D-105, SWPPP Subcontractor Certification - Subcontractor signs
- 25D-106, SWPPP Pre-Construction Site Visit – contractor’s document that SWPPP Preparer signs
- 25D-107, SWPPP Delegation of Signature Authority for CGP Documents - DOT&PF – Department’s Regional Director signs
- 25D-108, SWPPP Delegation of Signature Authority for CGP Documents - Contractor – contractor’s Corporate Officer signs
- 25D-109, SWPPP Certification for DOT&PF – The Project Engineer signs a certification when the SWPPP is approved
- 25D-111, SWPPP Certification for Contractor – The superintendent signs the certification when the SWPPP is approved by the Department
- 25D-125, SWPPP Training Log – contractor tracks personnel training
- Copies of eNOIs in effect and acknowledgement letters from DEC
- HMCP - contractor’s document that requires approval from the Department. It becomes part of the SWPPP.
- Reference the SPCC Plan (if required) – No approval required

The following forms are used by the contractor during construction and kept up to date in the SWPPP:

- 25D-100, SWPPP Construction Inspection Report – Must be completed by the superintendent or SWPPP manager/representative. Requires dual signature and certification by superintendent and Project Engineer after each joint inspection
- 25D-110, SWPPP Grading and Stabilization Activities Log – Superintendent or SWPPP manager/representative date and initial, used to record dates of land disturbance and stabilization measures
- 25D-112, SWPPP Corrective Action Log – Superintendent or SWPPP manager/representative

date and initial, used to document timely maintenance or corrective actions

- 25D-114, SWPPP Amendment Log – Superintendent or SWPPP manager/representative date and initial, used to document changes to the SWPPP
- 25D-115, SWPPP Daily Record of Rainfall – Initials required, any worker can fill it out
- 25D-127, SWPPP Project Staff Tracking – contractor tracks qualified personnel and positions
- 25D-129, SWPPP Visual Monitoring Data – Only used on selected projects and as required by special provision
- 25D-140, SWPPP Turbidity Monitoring Form – Only used on selected projects and as required by special provision

The following form is filled out by the Department and kept up to date in the SWPPP:

- 25D-113, SWPPP Delayed Action Item Report – The Project Engineer prepares the report and sends a copy to the Superintendent for inclusion in the SWPPP, used to document BMP actions that are not practicable to complete by the Complete by Date written on construction storm water inspection report and to assign a new Complete by Date.

Ensure that the contractor keeps the approved and updated SWPPP, HMCP and SPCC at the on-site project office, or a nearby office. They are the documents of record, and must be made available to any local, state or federal inspector who requests them.

9.9.5 Seasonal Shutdown

During seasonal shutdown, the contractor must inspect, monitor, and report on BMPs, and take corrective action as required by contract and the CGP.

It is preferable that seasonal shutdown inspections be conducted jointly by the contractor and Department. However, if it is not practicable to conduct a joint inspection, the entity that conducts the inspection must explain why it was not practicable, and provide a copy of the inspection report to the other entity within three days of the inspection and document the submittal.

The Project Engineer may reduce the frequency of or waive winter monthly inspections if contract requirements are met, and the requirements of the CGP Reductions in Frequency are met.

9.9.6 Final Stabilization and Notice of Termination

The contractor's inspection requirements continue until final stabilization is achieved. The Project Engineer, in consultation with regional construction storm water specialist and/or environmental personnel, is responsible for determining when final stabilization has been achieved; after that date the contractor has 30 days to submit the Notice of Termination (NOT) to the DEC either by certified mail or through the APDES electronic filing system.

The regional director will sign the Department's eNOT, and they or the environmental section will submit the eNOT to DEC. Although the CGP allows 30 days to do this, it is best to file the Department's NOT as soon as final stabilization is determined. The Project Engineer should send copies of both eNOT submissions to the environmental section and ensure that copies of both are included in the SWPPP of record.

When the contractor's eNOI includes areas where the Department is not an operator (has a SWPPP and SWPPP2s), then the contractor will not be able to file an eNOT until all areas are stabilized. See the specifications for how to amend the SWPPP.

9.9.7 EPA Consent Decree Reporting Requirements

There are many requirements listed in the consent decree. The contract should include the terms that affect the contractor. The Department may have to add language to existing contracts to incorporate the consent decree. Consult with your regional construction storm water specialist for detailed information.

The Department will store records including copies of the initially approved SWPPP, the final SWPPP, and weekly inspection reports and other listed forms kept during construction.

The regions will use eDocs to transmit to Headquarters D&ES. Send the following documents on a weekly basis during the construction season, and on a monthly basis during a reduced inspection frequency in winter:

- 25D-100, Inspection Report

- 25D-115, Daily Record of Rainfall
- 25D-110 Grading and Stabilization Log*
- 25D-112, Corrective Action Log*
- 25D-113, Delayed Action Item Report*
- 25D-114, SWPPP Amendments and Amendment Log*
- 25D-127, SWPPP Project Staff Tracking*
- Changes to Site Maps*

** Asterisked forms and data are transmitted if they were changed or information added during the reporting time period.*

There are monetary penalties for failing to meet the Consent Decree requirements. When the contractor fails to meet a requirement of the contract, and such violation is also a violation under the Consent Decree, then the Department will withhold SWPPP Liquidated Damages (LDs). The LDs will be reviewed by the region. After review the regional accounting office will bill the contractor. The Project Engineer may withhold project funds until the contractor pays the LD amount to the regional accounting office. Funds used for payment must be separate from project funding.

9.10. Oil and Hazardous Materials Reporting Requirements

In the event of a release, discharge or spill, of oil or hazardous substance, the Project Engineer and contractor should be notified immediately. The contractor should begin spill containment and cleanup as soon as practicable.

The contractor is responsible for reporting spills. The following state and federal reporting requirements should be included in the contractor's HMCP:

State DEC: Any release of a hazardous substance must be reported to DEC as soon as the person knows about the discharge.

The following are DEC requirements for reporting oil discharges:

- **To water:** Any release of oil into water must be reported as soon as the person knows about the discharge.
- **To land:** Any release of oil *in excess of 55 gallons* must be reported as soon as the person

knows about the discharge. Any release of oil *in excess of 10 gallons but less than 55 gallons* must be reported within 48 hours after the person finds out about the discharge. A person in charge of a facility or operation must maintain and provide to the DEC on a monthly basis a written record of any discharge of oil from *1 to 10 gallons*.

- **To impermeable secondary containment areas:** Any release of oil *in excess of 55 gallons* must be reported within 48 hours after the person finds out about the discharge.

Notify the Alaska Department of Environmental Conservation (DEC) at one of the following telephone numbers, depending upon project location:

- Central (Anchorage) 907-269-3063
- Northern (Fairbanks) 907-451-2121
- Southeast (Juneau) 907-465-5340
- Outside normal business hours, call: 1-800-478-9300

DEC Reporting requirements and forms can be found on the web at:

<http://www.dec.state.ak.us/spar/spillreport.htm>

Via telephone, DEC will assist you in completing an Oil and Hazardous Substances Spill Form (Section 17). Submit it to DEC after telephone notification.

Federal: In the event of an oil spill that reaches any surface waters, or a spill on land of certain hazardous substances (listed in Table XII in Appendix 18.12) exceeding the Reportable Quantity (RQ) level, *the contractor must notify the National Response Center in Washington, D.C., immediately at (800) 424-8802.*

THE NRC web form can be reached at:

<http://www.nrc.uscg.mil/nrchp.html>

The contractor should document information about the spill, and the contractor's spill response, containment and cleanup efforts. Other agencies may also inspect the cleanup efforts and make additional requests for cleanup actions.

9.11. Right-Of-Way Considerations

During construction, the Project Engineer may encounter situations that involve unavoidable construction work outside the Department's property or right-of-way limits or situations that involve an

adjacent private property owner or lessee's encroachment onto the Department's property or right-of-way. The Project Engineer must obtain a construction permit from the private property owner, or an agreement from the lessee, before permitting the contractor to work outside the Department's property/right-of-way. If the Project Engineer encounters difficulties obtaining the necessary permission, they should seek assistance from the regional right-of-way unit or the airport-leasing unit.

If the Project Engineer discovers encroachments in the right-of-way and no right-of-way document exists in the field records that permit the encroachment, contact the right-of-way unit for assistance in permitting them or in having them removed. The Project Engineer should give the right-of-way unit the opportunity to review all permits or agreements they initiate.

9.12. Differing Site Conditions

When the contractor encounters conditions in the progress of the work that they feel differs from those represented in the contract, the contractor must notify the Project Engineer in writing. Following the contractor's notification, the Project Engineer must notify the Group Chief/PM and should investigate and document the condition and the contractor's efforts in dealing with it. The Project Engineer and the project staff should thoroughly monitor the situation, including doing additional testing and documentation as required, until they resolve the matter.

If a change is found that the Department is responsible for, the Project Engineer should discuss the condition, along with possible actions to mitigate its effects, with the Group Chief/PM. The Project Engineer should attempt to resolve the situation with the contractor, regardless of where the responsibility may lie. If the Project Engineer and the contractor are unable to resolve the situation, the contractor has recourse under the claims and disputes clause in the contract.

This clause establishes a formal framework for handling disputes, and the Project Engineer and the project staff should be very careful to follow it. Once in the dispute status, the Project Engineer should continue to carefully review the documentation being gathered by the project staff. The Project Engineer should keep both the Group Chief/PM and the federal funding agency current on the status of the changed condition and its resolution. The Project Engineer should continue to fully monitor and document the

condition, and the contractor's expense in dealing with it, until the matter is resolved.

The Project Engineer should also review project funding if it appears that the project will incur an additional financial liability from the dispute. Once the dispute is resolved, the tentative agreement must be formalized through a contract change document (Section 13.1.).

9.13. Claims and Disputes

The contract establishes a formal framework for the Department and the contractor to follow in the event of a dispute or a claim for an adjustment in the contract; the procedures outlined in AS 36.30.620 form the basis for this framework. If a conflict cannot be avoided, the contract language provides a mechanism for the contractor to seek relief over any contractual matter including interpretation of the contract, a question of fact, extension of contract time, or any act or occurrence that may form the basis for additional compensation.

The burden is on the contractor to first notify the Project Engineer of the situation. If the matter cannot be resolved within seven days of that notification, the contractor has 14 days to submit a written Notice of Intent to Claim to the Project Engineer. Try to resolve the issue based on the contract documents. The contractor must submit a written claim to the contracting officer within 90 days after the date the contractor became aware of the basis of the claim or should have known of the basis of the claim, whichever is earlier.

The claims package must include:

- Act, event, or condition giving rise to the claim
- Contract provisions that apply to the claim and provide the requested relief
- The items or items of contract work affected and how they are affected
- Specific relief requested
- Statement of accuracy and good faith

The contracting officer has 90 days from receipt of the claim package to issue a decision.

The contractor has 14 days after receipt of the decision to appeal to the commissioner. The commissioner may adopt the contracting officer's decision within 15 days after receipt of an appeal as the final decision without a hearing.

If the contractor is not satisfied after exhausting the administrative process, the contractor may pursue the matter through the judicial system.

Throughout this process, it is important for the Project Engineer and the project staff to thoroughly document all of the contractor's operations, keeping both written and visual records. It is most important for the Project Engineer to thoroughly review all of the staff's project reports each day to ensure that the project staff remains vigilant but impartial in the dispute. In addition, keep both the Group Chief/PM and the federal funding agency current on the status of the dispute and its resolution. As with any dispute, once the parties resolve it, they must formalize the agreement through a contract change document and they must advise the federal funding agency of the terms of that resolution.

9.14. Partial Acceptance

The Department may accept, at its discretion, a substantially complete geographically separate portion of the project. When the contractor notifies the Project Engineer that work has been substantially completed at a geographically separate location, the Project Engineer should, after coordinating with the Group Chief/PM, schedule an inspection and follow the procedures outlined in Sections 15.1 and 15.3.

9.15. Airport Master Record

The Project Engineer collaborates with design and the airport manager in updating the Airport Master Record. Most updates are done on-line electronically. For links to electronic forms go to: <https://nfdc.faa.gov/xwiki/bin/view/NFDC/PublicADC>

FAA requires an Airport Data Change Form and electronic as-constructed (as-built) records of the airport layout.

Other forms or information (records) may be required for changes to:

1. Runway Length

If this submission details runway length changes for runways with an Instrument Approach Procedure (RNAV, GPS, ILS, SID, STAR, etc.), then the data must be submitted via a survey. Federally-funded surveys must be submitted through the [FAA Airports GIS program](#).

2. Traffic Pattern Altitude, Right Traffic, Declared Distances

If this submission requires changes to any of the following items:

- Traffic Pattern Altitude
- Right Traffic
- Declared Distances

then you must submit an [FAA Form 7480-1](#) to the appropriate Airports District Office (ADO).

3. ARFF Index

If this submission requires changes to the Aircraft Rescue and Firefighting (ARFF) Index, please send the information to the appropriate regional [ADO](#) for approval and publication.

Submit information (records) two months before substantial completion of any airport project regardless of funding source. The Project Engineer **should** review the forms with the airport manager for changes in any of the data elements. The Project Engineer **should field**-review data elements such as:

- Airport manager information
- Services available to the airport
- Non-commercial landing fee
- Condition of the surface
- Current users of the airport
- As-constructed (**as-built**) information

Submit to the design section the information that reflect the changes (runway dimensions, surfacing, lighting changes, or navaid installation), and certificates, warranties and equipment maintenance information. Design should submit copies of the updated information to the maintenance and operations unit, and the airport manager.

The section (design, construction, or airport manager) responsible for **submitting the Airport Data Change Form and other required information** to the FAA varies by region.

9.16 Notices to Airmen (NOTAMs)

Refer to AC 150/5200-28D, *Notices to Airmen (NOTAMs) for Airport Operators*, and Section 17 for a sample FAA NOTAM. **Also see Section 9.7.**

A NOTAM is a notice containing information (not known sufficiently in advance to publicize by other means) concerning the establishment, condition, or change in any component (facility, service, or procedure) of, or hazard in, the National Airspace

System (NAS); the timely knowledge of which is essential to personnel concerned with flight operations.

The function of the NOTAM system is to disseminate information until the associated aeronautical charts and related publications have been amended. It is not intended to be used to impose restrictions on airport access for the purpose of controlling or managing noise or to advertise data already published or charted.

FAA Flight Service Stations (FSS) and Automated Flight Service Station (AFSS) receive and manage most NOTAM information for processing and dissemination on the NOTAM system. The National Flight Data Center (NFDC) in Washington, DC, has national program management responsibilities for the system and has exclusive operational control of certain NOTAM elements.

The Project Engineer should maintain a file of existing NOTAMs in the project office. The Project Engineer should coordinate with the contractor and airport manager to provide information for NOTAMs. The Project Engineer may draft:

- requests for a new NOTAM,
- to extend an existing NOTAM time duration, or
- cancel the original NOTAM and reissue the data as a new NOTAM with a new time

Draft NOTAMs should be submitted to the airport manager or their authorized representative. Due to Advisory Circular requirements and the need to format information in specialized language, only the airport manager or an authorized representative listed with FSS can provide NOTAM information to the FSS.

Usually the FSS issues the NOTAM. Alternatively (if certified by FAA) the airport manager or authorized representative may use the digital NOTAM system to publish NOTAMs. The digital system is posted at: <http://notamdemo.aim.nas.faa.gov/dnotam/>

Normally notification should be made not more than 3 days before the expected condition is to occur.

The airport manager **or authorized representative** must coordinate the issuance, maintenance, and cancellation of NOTAMs about airport conditions resulting from construction activities with tenants and the local air traffic facility (control tower, approach control, or air traffic control center).

Only the FAA may issue or cancel NOTAMs on shutdown or irregular operation of FAA-owned facilities. **Only the FAA may issue or cancel NOTAMs regarding navigation facilities and approach lights.**

Any person having reason to believe that a NOTAM is missing, incomplete, or inaccurate should notify the airport manager.

9.17. Environmental Permits and Commitments

The Department must comply with all environmental permits and commitments required to construct a project. These are included in the contract documents.

See the *Alaska Environmental Procedures Manual* for additional information on environmental permits and approvals.

9.17.1 Alaska Pollutant Discharge Elimination System General Permit

In November 2009, the Alaska Department of Environmental Conservation took over primacy from EPA, and began the Alaska Pollutant Discharge Elimination System (APDES) General Permit for Construction Activities in Alaska to include both large and small construction activities (all construction projects disturbing one acre or more of ground). The Department operates under this Construction General Permit (CGP). This permit requires preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) during the construction phase of a project. All work must be conducted in accordance with the CGP and SWPPP. Both the contractor and the Department are fully liable for the SWPPP.

9.17.2 Permitting Agencies

- The U.S. Army Corps of Engineers issues permits for work in Navigable Waters of the U.S. (Section 10). Discharge of materials into any waters or wetlands of the U.S. is prohibited by the Clean Water Act (Section 404) without a permit. The act also prohibits transporting dredged material for disposal in ocean waters without a permit (Section 103).
- The U.S. Coast Guard permits bridges over navigable waters (Section 9) and private aids to navigation.

- The U.S. Department of the Interior, Bureau of Land Management (BLM) issues permits for material sites on BLM managed land in Alaska for the sale of sand, gravel, and rock. The permit requires that material sites be developed in an environmentally sound manner.
- The Alaska Department of Fish and Game issues permits for work in special areas like fish habitat, state game refuges, critical habitat, or sanctuaries.
- The Alaska Department of Environmental Conservation issues permits for storm water discharge, wastewater disposal, Section 401 Certificate of Reasonable Assurance (certifying that an activity is in compliance with the Clean Water Act), design plan approval for water and sewer facilities, and construction dewatering. They also handle soil and water contamination, fuel spill cleanup, fuel storage, and related issues.
- The Alaska Department of Natural Resources issues permits for tidelands, right of way, land use, temporary water use, water rights, and material sites on state land. The State Historic Preservation Office must review all material sites. Material sites must also be developed in an environmentally sound manner.
- The Department permits designated material sites for projects that have designated sources.

9.17.3 Environmental Commitments

A Location Hydraulic Study may be required for cities and boroughs that have flood-plain management. These include Anchorage, Fairbanks, Kenai, Juneau, and the Matanuska-Susitna area.

National Marine Fisheries Service oversees the Marine Mammal Protection Act, Essential Fish Habitat, and the Endangered Species Act. The U.S. Fish and Wildlife Service also has jurisdiction over the Endangered Species Act, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act. The Department may have commitments based on any of these laws. Commitments can be found in the project-specific environmental document, permits, environmental commitments memorandum, and project specifications.

9.17.4 Contractor Permits

The contractor permits contractor-furnished material sites. The contractor submits documentation from the following agencies for clearances or permits:

- The State Historic Preservation Officer's historic and archeological clearance.
- U.S. Fish and Wildlife Service clearances for eagle nests and threatened or endangered species.
- U.S. Army Corps of Engineers determination of no wetlands or a permit issued for working in wetlands.
- Alaska Department of Fish and Game fish habitat permit for work below ordinary high water.
- An approved Alaska Department of Natural Resources Mining and Reclamation Plan or an exemption.
- A material sales and/or land use agreement with the property owner.

The contractor must file an NOI and NOT with DEC for projects that disturb more than one acre. The contractor must submit a Hazardous Material Control Plan to the Project Engineer for approval, as well as a copy of the contractor's Spill Prevention Control and Countermeasure (SPCC) plan when fuel storage exceeds 1,320 gallons, and there is a reasonable expectation that a spill of these products could reach navigable waters of the United States.

Water use by the contractor may require Alaska Department of Natural Resources' Temporary Water Use Permit and a Alaska Department of Fish and Game Fish Habitat Permit. Construction camps require Alaska Department of Environmental Conservation water and wastewater permits and the property owner's land use permit.

9.17.5 Achieving Permit Compliance

In order for your project to achieve compliance under these permits and commitments, you and your staff must pay close attention to:

- *The project's environmental document, permits, environmental commitments memorandum, and the project specifications.* Read them every time a new activity starts. Understand what each permit or commitment requires the contractor to do. Request assistance and clarification from the regional environmental manager on any portions that are ambiguous, or don't fit the field conditions.
- *Special conditions.* The Department must comply with the special conditions and the special

conditions are in the permit for a reason, so pay close attention to them. Special conditions are usually found in the U.S. Army Corps of Engineers' permits.

- *Expiration dates.* Permits are issued for a certain length of time and they expire. Verify the permit expiration dates. If they will expire before the projected project completion date, then the permit may need to be updated. Contact the regional environmental manager, who will refer you to the environmental analyst assigned the project and request a permit modification well in advance of the expiration date. Once a permit expires, usually a new one is required.
- *Making changes in permitted areas.* Do not make any changes to the footprint of a project, pipes, fill, or riprap in areas covered by the permit without contacting both the Designer of Record and the regional environmental manager. If there is a change, the permit may need modification.
- *Storm water runoff.* Read the contract language regarding the Storm Water Pollution Prevention Plan (SWPPP). Incorporate and maintain all best management practices identified in the SWPPP into the project. Perform joint inspections and ensure the contractor corrects any deficiencies in the SWPPP. Make sure the contractor complies with the SWPPP, the Consent Decree, and the DEC Construction General Permit. See Sections 3.11 and 9.9 for additional requirements for the SWPPP.
- *Waste areas for overburden and excess subgrade.* All waste areas must be in uplands or in permitted wetlands. This includes waste areas on private property, and written permission from the landowner to use the area as a waste area. The law requires the contractor to have a U.S. Army Corps of Engineers permit before placing waste material in wetlands, stream channels, and other Waters of the U.S. DNR must approve state land outside the highway right-of-way for use as a waste area. Waste areas included in the SWPPP must be jointly inspected with the contractor for compliance.
- *Material sites.* Material sites have permitted quantities. If they are to be exceeded in quantity or duration, revise the permits before they expire. Material sites included in the SWPPP must be

jointly inspected with the contractor for compliance.

- *Violations.* If you discover that the contractor is in noncompliance or is violating any condition of any permit, or is not complying with the SWPPP requirements, notify your project manager, the regional environmental manager, and direct the contractor in writing to stop work on that portion of the project. You may withhold progress payments to cover any fine that is a result of the violation. Penalties by the U.S. Army Corps of Engineers may be as high as \$50,000/day in fines and from 1 to 3 years of imprisonment. Some permits hold the person(s) certifying compliance responsible and they, along with the Department and the contractor, may be cited for violations.
- *Permit modifications.* Any variation from the issued permit or commitment requires project manager approval and concurrence from the regional environmental manager.

cone locations in advance so that cones may be placed quickly and accurately and the resulting line of cones will be straight and correctly spaced.

- Ensure that all flaggers' positions, clothing, and equipment meet the requirements of the specifications.
- When rain gear is necessary, it shall conform to the requirements of the specification for tops and bottoms.
- To maintain the cones, signs, and other safety devices, the Work Zone Supervisor must patrol the project's traffic control systems.
- Personnel, representing the Department and the contractor, who are capable of and empowered to make decisions quickly if the need arises, must be on the job at all times.

9.18. Nighttime Operations

Frequently the Special Provisions for a project restrict work on the existing traveled way to a specified period at night. Based on traffic counts, the regional traffic unit determines times for closing lanes and for nighttime work.

The effectiveness of handling traffic through night construction depends upon the Traffic Control Plans, Lighting Plan, and the details of the contractor's operations. The contractor is required to submit and obtain approval of his lighting plan before proceeding with nighttime work. Also, here are some details to consider:

- In addition to the requirements for signs and warning devices shown in the Traffic Control Plans, changeable message signs in advance of the work may be used effectively. You may also consult the regional traffic unit on the use of changeable message signs.
- Use road flares to get motorists' attention only under emergency conditions. Take care to prevent fires in susceptible high fire-risk areas.
- During daylight hours, mark signs and lane closure locations in advance. The Project Engineer should review lane closures' layouts for visibility and effectiveness. When possible, mark