

4 Environmental Assessment and Finding of No Significant Impact

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4.1 Introduction

An Environmental Assessment (EA) is prepared for projects when the significance of the potential environmental impacts is uncertain. The EA provides the analysis for the Alaska Department of Transportation and Public Facilities (DOT&PF) to determine if a proposed action has the potential to cause significant environmental impacts.

If the EA process finds that no significant impacts would occur, a Finding of No Significant Impact (FONSI) is issued. An EA and FONSI are prepared in accordance with the procedures in this chapter.

If the EA indicates the proposed action would cause significant environmental impacts, an Environmental Impact Statement (EIS) would be prepared in accordance with the DOT&PF Environmental Procedures Manual (EPM) Chapter 5, and the information contained in the EA would facilitate preparation of the EIS.

The EA is a concise public document that:

- Includes the purpose and need for the action
- Describes impacts to the social, economic, and natural environment
- Accounts for direct, indirect, and cumulative effects
- Includes a comparison of potential impacts from each build alternative being considered
- Discusses the no build alternative
- Evaluates one or more build alternatives
- Includes public and agency involvement
- Provides the necessary evidence and analyses for determining whether a FONSI is appropriate or if an EIS is required

4.2 Preparation of the EA

The EA is intended to be a concise document and will likely require more complex analysis than a Categorical Exclusion (CE). Preparation of an EA should follow 23 Code of Federal Regulations (CFR) 771.119 and guidance provided by FHWA's Environmental Toolkit.

Technical analyses should be briefly summarized and incorporated by reference into the EA. Final technical reports, studies, or analyses prepared in support of the project are generally not appended to the EA, but maintained in the region office as part of the project file and are available for public review upon request. The EA should focus on the social, economic, and natural environment resources that are potentially impacted by the

proposed action. If research or analysis demonstrates that a resource category would not be potentially impacted by the proposed action, state this determination early in the EA and further discussion of the category is not necessary.

An EA is developed in two-stages. A Draft EA is circulated for public and agency comments, and a Final EA provides basis for a final decision. During the preparation of the EA, maintain all agency and public comments and DOT&PF responses, as well as documentation of coordination efforts in the region project file. The comments and responses are to be summarized in the EA Comments and Coordination chapter and attached in an appendix to the EA.

The following are required in an EA:

- Cover Page*
- Purpose and Need
- Alternatives (including no build and proposed action/preferred alternative)
- Affected Environment & Environmental Consequences (including avoidance, minimization, and mitigation measures)
- Comments and Coordination
- Section 4(f) Evaluation (if applicable)
- Appendices (supporting information: e.g., scoping report, Section 6(f) analysis)

*The National Environmental Policy Act (NEPA) Assignment Program Memorandum of Understanding ([MOU](#)) (Part 3.1.2) requires the following language be included on the cover page of each EA, in a way that is conspicuous to the reader:

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by DOT&PF pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated April 13, 2023, and executed by FHWA and DOT&PF.

If only one build alternative is evaluated, the EA must briefly describe alternatives that were considered and eliminated from further study. If an alternative is eliminated from further consideration because it does not meet the purpose and need, the EA must explain how or why the particular alternative did not meet the purpose and need. If more than one build alternative is evaluated in the EA, a preferred alternative should be identified.

DOT&PF may decide not to include a preferred alternative in the EA, but this decision must be approved by the Statewide Environmental Program Manager. If a preferred alternative is not identified in the Draft EA, it must be identified in the Final EA and made available for additional public involvement.

The EA should disclose any primary/ancillary project connections (e.g., tiered projects or phased construction over time), analyze the cumulative impacts of the connected projects, and reference any previously approved environmental documents for the connected projects.

The following references should be consulted for additional guidance on preparation of the EA:

- Federal Highway Administration (FHWA) Technical Advisory on National Environmental Policy Act (NEPA) document preparation ([T 6640.8A](#))
- [American Association of State Highway and Transportation Officials' Improving the Quality of Environmental Documents](#) – information on EA content and format
- [FHWA Environmental Review Toolkit](#) – tools for NEPA and Section 4(f) analysis and documentation

and resources for water, wetlands, wildlife, and historic preservation

- [23 U.S. Code \(U.S.C.\) 139](#), may be used to assist the preparer verify that all necessary components are included in the environmental document

4.3 DOT&PF Review and Approval Process

The project development team, as established by the region, performs Quality Assurance (QA) during development of the EA through collaboration, project meetings, and intradepartmental review of sections, chapters, or the entire document. The Statewide Environmental Office (SEO) may review specific EA chapters prior to submitting the final document for SEO review and approval. Early coordination and communication with SEO can help resolve issues and facilitate an efficient final review process.

The region and SEO will perform separate Quality Control (QC) reviews for the Draft EA, Final EA, FONSI and any supplemental EA. This is discussed in the EPM Chapter 11. After each QC review, a legal review of the environmental document must be requested. More than one review cycle may be necessary prior to receiving document approval.

4.4 Public Involvement and Agency Coordination

For EAs, DOT&PF generally conducts the public involvement steps listed below. Additional public involvement requirements and information are located in the EPM Chapter 7.

- Notice to Begin Engineering and Environmental Studies
- Public Involvement Plan
- Scoping
- Notice of Availability
- Public Meeting(s)/Hearing

The MOU (Part 3.1.3) requires that the following language be disclosed to the public and agencies as part of public involvement and agency outreach procedures, including any Notice of Intent, scoping, or public meeting notice, Notice of Availability, or public hearing:

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by DOT&PF pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated April 13, 2023, and executed by FHWA and DOT&PF.

4.4.1 Notice of Availability

A draft EA approved for public availability must be made available to the public through a notice of availability that briefly describes the action, its impacts and specifies locations where the EA can be reviewed. The region will first distribute copies of the EA to the appropriate agencies and public for their review and comment, and then publish a notice of availability. Public and agency review should occur concurrently (See EPM Chapter 7).

Publish the notice of availability by the following methods as appropriate:

- In local newspapers, if any
- In the Alaska Online Public Notices (OPN)
- By mail or email
- By other methods, as appropriate

The region will make the approved draft EA available for public review as follows:

- By request
- Online (e.g., project websites, social media)
- At local libraries, if any
- At DOT&PF region and SEO offices
- At other locations, as appropriate (e.g., community centers)

The draft EA is made available for review for a minimum of 30 days from the date the notice of availability was published ([23 CFR 771.119\(e\)](#)). This may be increased or reduced in rare circumstances with SEO approval. In addition to the aforementioned methods of distribution, the notice of availability is to be mailed to those who request it ([40 CFR 1506.6\(b\)\(1\)](#)) and sent to affected federal, state, and local government entities and state intergovernmental review contacts ([23 CFR 711.119\(d-f\)](#)).

Final technical studies should be available for public or agency review with the EA. Technical studies and other documentation regarding cultural resources (e.g., Section 106 consultation materials) containing sensitive information may be restricted. The Environmental Impact Analyst or Regional Environmental Manager (REM) will consult with the region Cultural Resource Specialist for consistency with DOT&PF's [Cultural Resources Confidentiality Guidelines](#) before allowing public or agency review of materials containing potentially sensitive information (Section 7.5.5).

In order for a Draft EA to be approved for public availability, REM, SEO, and LAW reviews must be complete and SEO must receive the region Preconstruction Engineer recommendation for public availability. The Statewide Environmental Program Manager is authorized to sign an approval for public availability of the Draft EA or delegate signature authority to the NEPA Program Manager.

4.4.2 Public Hearing / Public Meeting

Public hearings are formal meetings required by FHWA regulations as described below. Public hearings also have specific requirements that must be met (EPM Section 7.5.6). SEO is responsible for the decision to hold a public hearing.

While the degree of public participation and agency involvement and the means of soliciting input for EAs are commensurate with project type and complexity, an EA project will provide, at a minimum, the opportunity for a public hearing during the project development process.

If a public hearing is not required or requested, public meetings, workshops, and other means of involvement may be used throughout the project development process. The EPM Chapter 7 has more detailed information on the public process.

Projects requiring reviews or approvals as part of other regulatory processes (Section 106 and Section 4(f)) may require additional public and agency involvement and/or notification procedures. Integrate these into the NEPA process as early as possible.

Section 106 and Section 4(f) approvals are standalone documents that must be completed in support of a complete environmental document. For instance, if the project requires an Individual Section 4(f) Evaluation, it must be circulated to the appropriate agencies. Requirements for agency review of Section 4(f) evaluations are found in [23 CFR 774](#) and discussed in the EPM Chapter 8.

4.5 Final EA

At the conclusion of the public review period, prepare a summary of the comments received and a response to each substantive comment or category of comments and revise the EA accordingly. The REM, in consultation with the SEO, determines whether to incorporate revisions into the Final EA through errata sheets or with strike-outs and revised text in a newly printed document. The Final EA is documentation of a separate approval action.

Additional legal review of the Final EA must occur after incorporating modifications resulting from the public review process. The Final EA will:

- Include a new cover page with the required disclosure from the MOU Part 3.1.2
- Identify the preferred alternative if not previously identified, or if changed since the Draft EA public review period, additional public involvement may be appropriate prior to the approval of the decision document
- Identify changes in the proposed action, impacts, mitigation measures, findings, agreements and commitments, determinations, and laws or regulations
- Discuss comments received during the EA public review period, and responses provided, including changes to the project or the EA made in response to comments
- Include a new signature sheet

The format for the Final EA is typically an updated version of the EA with strike-outs of revised text, and comments and responses included as an appendix to the Final EA. Alternatively for situations where only very minor changes or corrections are necessary, errata sheets can be attached to the EA with the comments and responses included (not as an appendix). The errata sheets must include page numbers for public involvement comment responses and for locations of any text changes. Changes in the proposed action, impacts, mitigation measures, findings, agreements, determinations, and laws or regulations are also reflected in the errata sheets.

The Final EA is reviewed for QC (EPM Chapter 11).

A FONSI may be submitted to SEO for approval along with the Final EA.

4.6 Finding of No Significant Impact ([23 CFR 771.121\(a\)](#))

A FONSI is both the determination by the SEO that the project will have no significant impacts on the environment, and the documentation of the decision. The Final EA and any other appropriate environmental documents are referenced as the basis for the determination.

A FONSI is prepared after the 30-day Draft EA public review period is complete and the SEO determines that the proposed action has will not result in significant environmental impacts. The FONSI is a standalone document with separate signature approval from the Final EA, though they may be bound together. A FONSI may be submitted to SEO for approval either separately or along with the Final EA.

The FONSI determination is made by the Statewide Environmental Program Manager and may be delegated to the NEPA Program Manager. If significant impacts are identified through the EA process and the project continues to move forward, the SEO is consulted regarding document classification and preparation of an EIS.

A FONSI will include the following:

- A cover page with the required disclosure from the MOU Part 3.1.2
- A description of the selected alternative
- A summary of environmental impacts, commitments, and mitigation measures
- A description of changes to the proposed action in response to the public and agency comments

The FONSI is reviewed for QC (EPM Chapter 11).

4.6.1 Legal Sufficiency Review

All Final EAs or FONSIs relying on a Statute of Limitations (SOL) Notice prepared per 23 U.S.C. 139(l) are

required to receive a legal sufficiency review and determination. Communications with the Alaska Department of Law (LAW) and legal advice are confidential and are maintained in a separate file for privileged communications, which is not available for consultant, public, or agency distribution or review. When all legal comments have been appropriately addressed, LAW provides a memorandum documenting that the legal sufficiency review has been completed. The LAW memorandum documenting completion of the legal sufficiency review is included in a non-confidential folder of the project file. The Statewide Environmental Program Manager cannot approve an SOL Notice for a Final EA and FONSI until it has been determined to be legally sufficient.

4.7 Notice of Availability

After the FONSI is approved, or concurrent with the SEO review, the region will prepare a notice of availability of the FONSI for SEO approval. After SEO approval, the region will issue the notice of availability of the FONSI to the public and appropriate governmental agencies ([23 CFR 771.121\(b\)](#)) (EPM Section 7.5.8).

4.8 Limitation of Claims Notice

In accordance with 23 CFR 771.139 and 23 USC 139(l), DOT&PF may prepare a notice of final agency action for publication in the Federal Register. This notice establishes a 150-day statute of limitations (SOL) on legal claims against DOT&PF and other federal agencies for certain environmental and other approval actions, if specific circumstances apply. The notice must be published in the Federal Register for the 150-day SOL to apply and publication starts the clock for the SOL.

The notice is prepared by DOT&PF and sent to FHWA for them to have published in the Federal Register. The region Environmental Impact Analyst drafts the notice for the REM's review and submittal to the Statewide Environmental Program Manager for review. Once it is approved by the SEO, it must be sent to LAW for legal sufficiency review before sending to FHWA for publishing (23 USC 139(l)).

A notice of final agency action should list or describe all permits, licenses, and approvals by federal agencies that relate to and are within the scope of the project and are final as of the date of the notice. The notice should include the key laws under which the federal agencies took final action. [Proposed Revised Guidance for Public Comment, Environmental Review Process Guidance, Appendix D: FHWA Guidance on the Statute of Limitations (SOL) provision under 23 U.S.C. Section 139(l)(Question D-5)].

4.9 Supplemental EA

Federal courts have consistently recognized that the CEQ standards for supplementing environmental documents ([40 CFR 1502.9](#)) are the same for EAs and EISs. Accordingly, a supplement to either a Draft EA or a Final EA is to be prepared if:

- The agency makes substantial changes in the proposed action that are relevant to environmental concerns, or
- There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

When developing a supplemental Draft or Final EA, follow the procedures for developing the Draft and Final EAs presented earlier in this chapter. The procedures for public and agency review and comment, DOT&PF review and approval, and QC review also apply to the supplemental Draft and Final EAs.

4.10 Quality Control Review

QC review is an integral part of the DOT&PF environmental process. The goals of QC review are to identify and correct errors and omissions, support a quality finished product, and document the review. The QC review process occurs after the document is complete but prior to document approval. QC review is completed on the Draft EA, the Final EA, and the FONSI. Procedures for each of these review steps. The EPM Chapter 11 further explains the QC and QA processes.

QC review comments, responses, and resolutions at each stage of the process are documented in writing and placed in the region project file to document QC review.

Technical Appendix

FHWA NEPA regulations on preparing EAs can be found at [23 CFR 771, Environmental Impact and Related Procedures](#).

The complete CEQ regulations for implementing NEPA can be found at [40 CFR 1500-1508](#).

FHWA's "Efficient Environmental Review Process" is designed to improve and streamline project-specific environmental decision-making. For more information, see [23 USC 139](#).

The [FHWA Environmental Review Toolkit](#) provides information on methods and analyses regarding specific environmental resource categories.

Assistance with environmental and Section 4(f) document preparation and processing can be found in FHWA [Technical Advisory 6640.8A](#).

DOT&PF's 2002 [EA Preparation guidance](#) has useful suggestions for EA content and format.

FHWA has also developed [guidance on the EA and FONSI](#).

The California Department of Transportation has developed annotated outlines for various environmental document types, including an [EA Annotated Outline](#).

The [American Association of State Highway and Transportation Officials' publication "Improving the Quality of Environmental Documents"](#) provides information on EA content and format.

Consult the [Alaska Highway Preconstruction Manual](#) (HPCM) for a more in-depth discussion on project development.

Consult the [NEPA Assignment Program Quality Assurance and Quality Control Plan](#) for additional discussion on QA/QC documentation.