United States Army Corps of Engineers
Alaska District-Regional Regulatory Division
Cooperating Agency Coordination Plan
DA permit application POA-2017-271,
Requiring Environmental Impact Statement Level of Analysis

EPA-5178-0000206-0001

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INTRODUCTION

This document describes the roles and responsibilities of the various cooperating agencies in order to establish a protocol for communication, early identification and resolution of issues, and to resolve issues that could delay completion of the environmental impact statement (EIS) and respective records of decision (ROD) for action agencies.

LEAD AGENCY

The U.S. Army Corps of Engineers (USACE) is the lead federal agency for completion of the EIS. The responsibility of the lead agency is to ensure compliance with applicable laws and regulations (i.e. National Environmental Policy Act (NEPA), Clean Water Act, etc.) USACE is responsible for managing the EIS process and schedule and the final content of the EIS, identifying and selecting cooperating agencies, and involving the public in the process. USACE will select a third party contractor in accordance with Regulatory Guidance Letter No. 05-08 for preparation of the EIS. The Council of Environmental Quality (CEQ) regulations implementing the NEPA govern the cooperating agency relationship for all Federal agencies preparing EISs under the NEPA. The USACE's regulations and policies regarding cooperating agencies are in agreement with those of CEQ.

DETERMINATION OF ELIGIBILITY FOR COOPERATING AGENCY STATUS

State agencies, local governments, Tribal governments, and other Federal agencies may be eligible to serve as cooperating agencies. Other than its provisions for Tribes (see subsection Eligibility of Tribes), CEQ regulations recognize two criteria for Cooperating Agency (CA) status: jurisdiction by law and special expertise.

DEFINING ELIGIBILITY 40 CFR 1508.5 (CEQ)

"Cooperating agency" means any federal agency other than a lead agency, which has "jurisdiction by law" or "special expertise" with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major federal action significantly affecting the quality of the human environment

….A state or local agency of similar qualifications or, when the effects are on a reservation, an Indian tribe, may by agreement with the lead agency become a cooperating agency.

JURISDICTION BY LAW 40 CFR 1508.15 (CEQ)

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

Jurisdiction by law offers a very specific basis for CA status and clearly states its statutory obligation to assist in EIS development and implementation.

SPECIAL EXPERTISE 40 CFR 1508.26 (CEQ)

"Special expertise" means statutory responsibility, agency mission, or related program experience.

Special expertise provides a broader window for CA status, emphasizing the relevant capabilities or knowledge that a Federal, Tribal, State, or local governmental entity can contribute to the EIS stemming from its statutory responsibilities or agency mission.

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ELIGIBILITY OF TRIBES 40 CFR 1508.5 (CEQ)

The CEQ regulations specify that a Tribe is eligible for CA status "when the effects [of an undertaking] are on a reservation".

The CA relationship is not a replacement or substitution for the government to government relationship with a Tribal government. The USACE has responsibilities under other laws, regulations, and policies to consult with Tribes when privately proposed projects requiring federal authorization affect resources important to Tribes. The USACE has extended government to government consultation invitations to 35 federally recognized tribes. Additional information about the Tribal consultation process for the projects requiring DA authorization under the regulatory program can be found in the Tribal Consultation Plan.

IDENTIFYING AND INVITING POTENTIAL COOPERATING AGENCIES

CEQ regulations permit a lead agency to invite other eligible agencies and governments to assume a cooperating agencies role "at the earliest possible time" (40 CFR 1501.6). Project Managers are expected to make a reasonable effort to identify Federal, Tribal, State and local entities possessing *jurisdiction by law* or *special expertise* concerning the area potentially affected by the project. Conversely, when a government entity requests CA status, the request must be evaluated against CA eligibility criteria. If either of the criteria (*jurisdiction by law* or *special expertise*) is met, CA status can be granted at the discretion of the Lead Agency

USACE will identify and invite agencies in accordance with the above definitions. The proposed project is located on state owned and privately owned land. USACE has identified four federal agencies (USACE, USCG, BSEE, PHMSA) that have jurisdiction by law and are required to produce records of decision for activities associated with the proposed project, two federal agencies that have jurisdiction by law with required consultations (NMFS, USFWS) and two federal agencies that have been invited for specific special expertise (USEPA, ACHP). In addition USACE has invited the State of Alaska for multiple approval authorities and special expertise.

To establish Federal and State CA status, the USACE will send a Letter of Invitation to the eligible government entity. The Letter of Invitation will include a brief outline of the role(s) of the specific CA in the EIS and invite the agency to an agency scoping meeting prior to the agency providing response to the invitation. To establish the formal CA relationship, the eligible federal or state government entity will send a written response back to the USACE stating their intent to serve as a CA in the EIS along with their ability to fulfill responsibilities identified in the USACE invitation letter.

USACE will systematically identify other entities that may bring special expertise to the EIS analysis and will invite those entities based on identified need.

SEE APPENDIX A FOR COOPERATING AGENCY IDENTIFICATION AND RATIONALE FOR THE PROPOSED PROJECT AND COOPERATING AGENCY INVITATION LETTERS.

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ROLES AND RESPONSIBILITIES OF LEAD AND COOPERATING AGENCIES

The CEQ regulations call for early and significant involvement by cooperating agencies in the preparation of an EIS. Both lead and cooperating agencies assume significant obligations in offering and accepting the CA relationship. As the lead agency, the USACE is expected to use the analysis and proposals of a CA "to the maximum extent possible consistent with its responsibility" (40 CFR 1501.6 (a) (2)).

CAs agree to contribute staff to the cooperating agency team, develop analyses for which they have particular expertise, and fund their own participation. Once becoming a CA partner, the agency remains a CA throughout the entire NEPA process, unless they withdraw due to exhausted resources or funding.

ROLES OF LEAD AND COOPERATING AGENCIES 40 CFR 1501.6 (CEQ)

(a) The lead agency shall:

1. Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
2. Use the environmental analysis and proposals of cooperating agencies with "jurisdiction by law" or "special expertise," to the maximum extent possible consistent with its responsibility as lead agency.
3. Meet with a cooperating agency at the latter's request.

b) Each cooperating agency shall:

1. Participate in the NEPA process at the earliest possible time.
2. Participate in the scoping process.
3. Agencies with jurisdiction by law will provide agency required screening criteria for alternatives development.
4. Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has "special expertise".
5. Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability. Normally use its own funds.

The roles and responsibilities for each CA will be formalized when the cooperating agency team is formed, scoping is completed, and the team is aware of potential gaps in cooperating agency team knowledge.

USACE's intent is to involve cooperating agencies early and identify specific roles to be fulfilled by cooperators to allow for the agency to focus their efforts, keep relevant information familiar, and assist in timely work product and reviews.

The USACE will provide reasonable timelines for CAs to complete their responsibilities, and USACE may approve extensions to specific timelines upon reasonable request of a CA where sufficient justification is provided by the CA. It will be the responsibility of each CA to inform USACE in writing if their respective agency does not have adequate resources to participate in the process, produce requested analysis, and/or meet the required review periods.

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GENERAL COOPERATING AGENCY EXPECTATIONS

THE FOLLOWING INFORMATION IS DESIGNED TO GIVE AN OVERVIEW OF EXPECTATIONS OF COOPERATING AGENCIES FROM EIS INITIATION THROUGH COMPLETION.

EIS INITIATION. The USACE will compile all relevant scientific research and ecological models that exist, develop a preliminary scope for the EIS, draft our agency purpose and need statement (why USACE is required to develop EIS) and develop a set of communication tools (website, meeting points). At this stage of the process, informal discussions with potential cooperating agencies will occur, followed by an agency scoping meeting, and formal invitations for CA status.

Roles for CAs: Determine agency capabilities to enter into CA relationship. Appoint a member (and potentially alternate) to serve on the cooperating agency management team and coordinate all internal resource efforts specific to the agency.

See Appendix B for agency designated personnel to serve as point of contact for this project.

DEFINE PURPOSE AND NEED & ASSESS THE AFFECTED ENVIRONMENT

This phase includes all activities required to initiate preparation and development of an EIS. It includes notifying the public of the project by publishing a Notice of Intent in the Federal Register and initiating the public scoping process; defining the project purpose, need, and objectives statements through public scoping meetings for incorporation into the draft EIS; developing a conceptual ecological model; and succinctly describing the existing environmental conditions and resource baselines in the Affected Environment Section of the draft EIS.

Roles for CAs: Federal agencies required to develop a record of decision should identify the specific purpose and need to which the agency is responding (Agency is required to make X permit decision under Y authority). These agencies should also identify any required alternatives screening criteria. For example, USACE is has screening criteria associated w All cooperating agencies will be asked to participate in identifying the NEPA purpose and need for the proposed project. Participate in scoping and collaborate in assessing scoping comments. Identify data needs; provide data and technical analyses within CA's expertise. Provide information (such as local monitoring and baseline data) for affected resource modeling and draft affected environment section of the EIS and help interpret model results as appropriate.

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CONSIDER ALTERNATIVES WITH SCOPING (PUBLIC) INPUT

The EIS lead and cooperating agency team will utilize public input to formulate a suite of reasonable alternatives to achieve the purpose and need of the proposed project. The information gathered during this phase will be used to prepare the Alternatives Chapter of the draft EIS.

Roles for CAs: Review alternatives proposed by public and suggest potential alternatives. For agencies with jurisdiction by law, ensure proposed alternatives take into consideration agency required screening criteria.

ANALYZE IMPACTS

Cooperating Agencies will be assigned to technical teams based on special expertise and jurisdiction by law. The CA will assist in analyzing the impacts (adverse and beneficial) and the significance of impacts on the environment of the area(s) to be affected or created by the alternatives under consideration. These impacts will be documented in the Environmental Consequences Chapter of the draft EIS.

Roles for CAs: Suggest models and methods for impact analyses; provide effects analysis within CA's expertise; identify direct, indirect, and cumulative effects within CA's expertise; suggest mitigation measures for adverse effects.

WRITE/REVIEW/COMMENT/RESOLVE

This phase will consist of consolidating all prepared draft chapters and appendices into a complete draft EIS and release of the document to all interested parties. Public hearings will be conducted and comments will be solicited

Roles for CAs: Collaborate with the USACE in evaluating alternatives; provide information for draft EIS. Resolve agency comments within jurisdiction by law or special expertise prior to public release of draft. Participate in hearings. Work with the USACE to understand and evaluate public comments.

Dispute Resolution:

Should significant differences exist between the USACE and any CA regarding EIS content, process or procedures, every effort will be made to resolve these differences, including using available alternative approaches to dispute resolution techniques. Issues that cannot be resolved at the staff level may be elevated to the Regional Regulatory Division Chief and appropriate level for CA (GS-15 or equivalent). The Regional Regulatory Division Chief will render final decisions on all elements of USACE's EIS. If the Regional Regulatory Division Chief's decision is contrary to the position of a CA, the USACE will determine if the differing positions can be clearly presented in the EIS. If so, the differing positions will be included in the EIS for the public review and comment.

CONSIDER COMMENTS AND FINALIZE EIS

This phase includes all the activities necessary to consider and respond to comments received on the draft EIS, revise (especially changes to alternatives or impact analysis conclusions) and finalize EIS, prepare the document for printing and print the required copies, prepare and publish a Notice of Availability for the final EIS.

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Roles for CAs: Review comments and assist with interpreting, and understanding public comments that relate to the agency jurisdictions or special expertise, to assist USACE in preparing responses. Suggest changes to alternatives or analysis as appropriate when comments dictate.

Please see Appendix C for specific Coordination Points, Information Requirements and Responsibilities for this project.

NOTE: There is no expectation that any cooperating agency will participate in review outside of agency jurisdiction by law or special expertise. Agencies that would like to comment more broadly should anticipate doing so during the scheduled public review and comment.

The schedule will include major EIS milestones consistent with statutory and regulatory requirements, in order to encompass the full environmental review process. The USACE will provide details in the schedule that are applicable to cooperating agency responsibilities. The USACE will use its discretion as lead agency in deciding the level of detail for the cooperating agency schedule with the objective of communicating clear expectations for the overall effort. The USACE will provide reasonable timelines for CAs to complete their responsibilities. A draft schedule has been provided to facilitate discussion. A final schedule will not be produced until after public scoping has occurred and the agencies have had opportunity to identify data gaps and any additional requirements identified as a result of scoping.

AGENCY WRITING AND REVIEW TIME

Agencies will be actively involved in the development of the Draft EIS within their respective areas jurisdiction by law or special expertise. Specific development and revision periods will be identified in the project schedule.

ALL PUBLIC REVIEW AND CIRCULATION PERIODS WILL BE IDENTIFIED IN THE PROJECT SCHEDULE AND WILL BE CONSISTENT WITH NEPA REQUIREMENTS.

COOPERATING AGENCY GUIDANCE ON PROJECT COMMUNICATIONS

CAs are encouraged to engage in robust discussion and debate during CA meetings and topical discussions on affected resources. These meetings ensure that all cooperating voices are heard throughout the EIS process and that multiple views can be thoroughly discussed. The USACE will not use the exchange that occurs within these meetings as a substitute for agency position or comments. The USACE requires that formal CA comments on work products of the EIS be submitted on agency letterhead, signed by the agency's designated official, within the time frames agreed upon in the approved project schedule. These letters may be submitted electronically to the designated project email address: poaspecialprojects@usace.army.mil. **All agency correspondence will be made part of the public record upon receipt.**

APPENDIX A. ENTITIES IDENTIFIED TO PARTICIPATE IN THE EIS PROCESS AND COOPERATING AGENCY INVITATION LETTERS

Federal Lead Agency and agencies invited to participate due to Federal Decision Making Authority

PERMIT: Discharge of Fill Material in Wetlands
USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes
Decision Agency: United States Army Corps of Engineers (Lead Agency)
Authority: Section 404 of the Clean Water Act
PERMIT: Activities in Navigable Waters
USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes
Decision Agency: United States Army Corps of Engineers (Lead Agency)
Authority: Section 10 of the Rivers and Harbors Appropriation Act of 1899
PERMIT: Bridge or Pipeline Crossing Navigable Waters
USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes
Decision Agency: United States Coast Guard
Authority: General Bridge Act of 1946 as amended by 33 USC 525-533
RIGHT OF WAY: Natural Gas Pipeline through outer Continental Shelf
USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No): Yes
Decision Agency: United States Bureau of Safety and Environmental Enforcement
Authority: 30 CFR 250 Subpart J
SPECIAL PERMIT: variations from current regulations for pipeline design/construction Undetermined at this time
USACE Environmental Impact Statement used to inform Agency Record of Decision (Yes/No):
Decision Agency: United States Department of Transportation Pipeline and Hazardous Materials Safety Administration
Authority:

Federal Agencies Invited due to jurisdiction by law with required consultations and special expertise

Endangered Species Act (Section 7 Consultation-Terrestrial Species)
Consulting Agency: United States Fish and Wildlife Service
Biological Assessment(s) to be included in EIS: Yes
Section 9 Permit required: Unknown at this time
Species:
Authority: Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
Special Expertise requested: Fish and Wildlife Resources
Endangered Species Act (Section 7 Consultation-Marine Species)
Consulting Agency: National Marine Fisheries Service
Biological Assessment(s) to be included in EIS: Yes
Section 9 Permit required: Unknown at this time
Species:
Authority: Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
Special Expertise requested: Marine Mammals, Fisheries
Magnuson-Stevens Fishery Conservation and Management Act
Essential Fish Habitat
Consulting Agency: National Marine Fisheries Service
Essential Fish Habitat Assessment to be included in EIS: Yes
National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.)
Advising Agency: Advisory Council on Historic Preservation
Draft Programmatic Agreement to be included in EIS: Yes
Special Expertise requested: Historic Properties, Section 106 compliance
Consulting Agency: Alaska State Historic Preservation Office
Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

Consulting Agencies: Fish and Wildlife Service, National Marine Fisheries Service, Alaska Department of Fish and Game

State of Alaska Invited due to jurisdiction by law and special expertise (abbreviated due to extent of involvement)

Alaska Department of Environmental Conservation
Wastewater discharge, Clean Water Act Sections 401 and 402 permits, air quality permit jurisdiction
Alaska Department of Fish and Game
Title 16 Fish Habitat Permitting (any activity occurring below the ordinary high water mark in an anadromous fish stream or any fresh waterbody with the potential to block fish passage, emergency permits, and field permits) Hazing permits Special Area Permits/assessments Fish Collection Permits for monitoring.
Alaska Department of Natural Resources State Historic Preservation Office
Cultural Resources, Historic Properties, Section 106 consultation
Alaska Department of Natural Resources Department of Mine, Lands, and Water
Mine Permitting (reclamation & closure and Plan of Operations approvals, mill site lease, upland mining lease, material sales, certificate to construct a dam, certificate to operate a dam, mining license, miscellaneous land use permit, right-of-way, tideland lease, general mine design, temporary water use authorization, permit to appropriate water)
Alaska Department of Health and Social Services
Needs and welfare of the people, health risk assessment
Alaska Department of Natural Resources State Pipeline Coordinator's Office
Pipeline Right of Way

Agencies and government entities invited for Special Expertise

United States Environmental Protection Agency
Special Expertise: 404(b)(1)guidelines of Section 404 Clean Water Act

Other government entities to be invited at the discretion of USACE as the need for special expertise is identified.

APPENDIX B. AGENCY COOPERATING AGENCY TEAM MEMBER CONTACT INFORMATION

MANAGEMENT CONTACTS FOR AGENCIES

Agency	Contact Person/Title	Phone	E-mail
USACE	Sheila Newman	907-753-5556	Sheila.m.newman@usace.army.mil
BSEE	John McCall	907-334-5300	John.mccall@bsee.gov
USCG	David Seris	907 463-2267	David.M.Seris@uscg.mil
USDOT-PHMSA	Linda Daugherty	816-329-3821	linda.daugherty@dot.gov
State of Alaska	Kyle Moselle	907-465-6849	Kyle.moselle@alaska.gov
ACHP	John Eddins	202-517-0211	jeddins@achp.gov
USFWS	Doug Cooper	907-271-2787	Douglas Cooper@fws.gov
NOAA-NMFS	Greg Balough Doug Limpinsel Jolie Harrison	907 271-3023 907 271-6379 301 427-8401	Greg.balough@noaa.gov Doug.Limpinsel@noaa.gov Jolie.Harrison@noaa.gov
USEPA	Patty McGrath	206-553-6113	Mcgrath.patricia@epa.gov

APPENDIX C. COORDINATION POINTS, INFORMATION REQUIREMENTS AND RESPONSIBILITIES

The following coordination points are key meeting collaboration points to ensure an efficient process.

Coordination Point	Meeting Purpose	Deliverables	Agency Involvement
Notice of Intent EIS	Send cooperating agencies a copy of the NOI; Invite agencies to agency scoping meeting		USACE
Agency Scoping Meeting	Overview of project, Draft P&N, and applicant prepared alternatives, Coop Agency Coordination Plan	Agencies Respond to Cooperating Request within specified timeframe	Each invited Agency to provide response
Conduct Public Scoping	Solicit public input on Project, Alternatives, socio and environmental concerns	Any Agency Scoping Comments due at same time as public comments	All Agency
Post Scoping Collaboration			
	Purpose and Need	Agency Purpose and Need Statement/Purpose and Need for development of EIS	Action Agencies/all agencies
	Develop Alternatives Screening Criteria	Criteria for Reasonable Criteria for Practicable	All Agencies
	Breadth of Environmental Resources to be analyzed	List of environmental resources. Finalize EIS outline	All Agencies
Collaboration on impact assessment methodologies	Technical expertise by topic to determine the appropriate context and method for evaluating impacts to specific environmental resources	Report out from each group	Agencies as assigned based on jurisdiction and special expertise
Review of Environmental Baseline and Consequences	Review comments by agencies with technical experts	Resolve agency Comments on document sections	Agencies as assigned based on jurisdiction and special expertise
Post Circulation of DEIS	Review public comments within assigned areas	Address/Resolve Public Comments	Agencies as assigned based on jurisdiction and special expertise
I.D. the Applicant's Preferred Alternative iaw	Agencies with Federal actions – id preferred alt.	USACE in accordance with Appendix B, PHMSA	Action Agencies

AppB	and identify differences based on program authorities	as fits their agency.	
I.D. LEDPA	Review all relevant information to LEDPA determination	Preliminary LEDPA	USACE/USEPA
Circulation of FEIS	Agency involvement closeout	Document	USACE

REFERENCES

1. Council on Environmental Quality NEPA regulations
http://www.nepa.gov/nepa/regs/ceq/toc_ceq.htm

2. Forty Most Asked Questions Concerning CEQ's NEPA Regulations
http://www.eh.doe.gov/nepa/tools/guidance/volume1/4-1-40_questions.html

3. The Corps Environmental Quality Procedures for Implementing NEPA
http://www.usace.army.mil/publications/eng-regs/er200-2-2/entire.pdf

4. Regulatory Guidance Letter 05-08. Subject: Environmental Impact Statements-Third Party Contracting
http://www.usace.army.mil/Portals/2/docs/civilworks/RGLS/rgl05-08.pdf

5. Appendix B to Part 325-NEPA Implementation Procedures for the Regulatory Program
http://www.gpo.gov/fdsys/pkg/CFR-2011-title33-vol3/pdf/CFR-2011-title33-vol3-part325.pdf

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