

# **Alaska Department of Transportation & Public Facilities**

## **Categorical Exclusion (CE) Assignment 15 Month CE Delegation Performance Report (23 U.S.C. 326)**

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**Prepared by: Amy Sumner, Statewide NEPA Manager  
Linda Heck, Statewide NEPA Manager  
Taylor Horne, Statewide Environmental Manager**

## **Background**

On September 20, 2012, the Alaska Department of Transportation (DOT&PF) and the Federal Highway Administration (FHWA) renewed the Memorandum of Understanding (MOU), pursuant to 23 U.S.C. 326. Through this MOU the FHWA assigned, and the DOT&PF assumed, the responsibility for determining whether a proposed federal-aid action is within a category of actions designated as a categorical exclusion (CE) by the USDOT Secretary, as specified in 23 CFR 771.117(a - d), and meets the definition of a CE as provided in 40 CFR 1508.4. Under the MOU, the DOT&PF was also delegated the FHWA's responsibilities for consultation with all federal resource agencies and for compliance with all applicable federal regulations. For the CE determinations delegated under the MOU, the State of Alaska assumed the legal responsibility for its NEPA decisions, and it is subject to federal court jurisdiction. The State of Alaska waived its 11<sup>th</sup> Amendment sovereign immunity against actions brought by its citizens in federal court for delegated CE determinations.

Stipulation IV(F)(2) of the MOU requires the DOT&PF to submit to the FHWA reports summarizing its performance under the MOU at the conclusion of the 15<sup>th</sup> month and the 30<sup>th</sup> month of the MOU. For the DOT&PF, the 15<sup>th</sup> month is December 2013 and the 30<sup>th</sup> month will be March 2015. The reports are required to:

- Identify any areas where improvement is needed and what measures the DOT&PF is taking to implement these measures.
- Summarize actions taken by the DOT&PF as part of its quality control efforts as described in Stipulation IV.

This report is the 15<sup>th</sup> Month Performance Report, covering the period from September 20, 2012 to December 20, 2013. In February 2014, the DOT&PF intends to meet with the FHWA Alaska Division Office to discuss the findings of this 15<sup>th</sup> Month Performance Report and the DOT&PF's performance administering the responsibilities delegated to it under the MOU.

## **Purpose**

The primary objective of the 15<sup>th</sup> Month Performance Report is to provide the FHWA with a summary of the DOT&PF's performance administering the CE authorities and responsibilities delegated to it under the MOU. This report will provide the following information:

- A summary of recent changes made in administering the 6004 Program (Section I)
- A statistical summary of the CE and Section 4(f) determinations for which the DOT&PF has assumed responsibility (Section II).
- A statistical summary of the 6004 Program's processing times for the DOT&PF Statewide Environmental Office's project approvals (Section III).
- A summary of DOT&PF's quality control efforts, a statistical summary of internal review findings that identify areas for improvement, and improvement measures taken (Section IV).
- A qualitative discussion of the DOT&PF's performance of the six quality measures, and the one timeliness measure described in the MOU Monitoring Plan (Section V).
- Recommendations that the DOT&PF believes could improve implementation of the MOU (Section VI).

## **I. 6004 Program Changes**

Since the renewal of the MOU on September 20, 2012, the Statewide Environmental Office (SEO) implemented a variety of changes in the administration of the 6004 Program. These changes include:

- Implementing a separate *6004 Program Environmental Procedures Manual* to provide clear guidance on the policies and procedures for developing and approving documents under the MOU;
- Improving the *Class of Action Consultation Form*, the *Categorical Exclusion (CE) Documentation Form*, and the *Environmental Re-evaluation Form*;
- Adopting expedited procedures as described in the *6004 Program Environmental Procedures Manual*, including two associated forms, for certain approvals;
- Replacing the Section 6004 monitoring tracking spreadsheet with a 6004 Reporting Microsoft Access Database to provide improved project tracking and program reporting; and
- Implementing new QA/QC procedures by replacing the *CE/PCE Quality Control Form* with a QA/QC Microsoft Access Database to provide improved quality control and program reporting

The manner in which these changes have greatly improved the efficiency and quality of the 6004 Program are discussed in detail in Section V, as well as throughout this report.

## **II. Statistical Summary from Quarterly/Semi-Annual Reports**

Stipulation IV(F)(1) of the MOU requires that reports be provided to the FHWA on all CE and Section 4(f) determinations made by the DOT&PF. The DOT&PF has met this stipulation as required by the MOU to date. All reports are available on the DOT&PF website at: <http://www.dot.state.ak.us/stwddes/desenviron/resources/6004.shtml>

This section provides a statistical summary of the information previously provided to FHWA under Stipulation IV(F)(1). During this 15-month reporting period, DOT&PF has assumed responsibility for and approved 237 CE determinations and re-evaluations of CEs under the MOU. The number of approvals per quarter is shown in Figure 1.

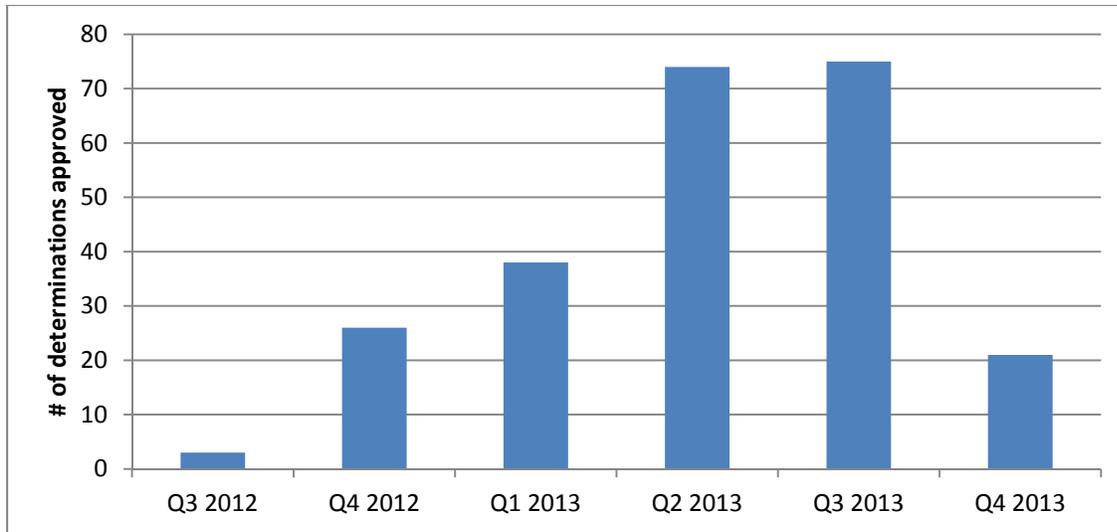


Figure 1. Number of determinations (CEs and re-evaluations) approved, by quarter, under the MOU during this 15-month reporting period (9/20/2012 – 12/20/2013). The number reported for the third quarter of 2012 (Q3 2012) only accounts for those approvals occurring on or after 9/20/2013.

The DOT&PF has three Regional Environmental Offices (Regions) and a Statewide Environmental Office (SEO). During the development of the original MOU, the DOT&PF developed an internal DOT&PF programmatic agreement mirroring the previously approved programmatic agreements between the FHWA and the DOT&PF. These programmatic agreement approvals, as described in the *6004 Program Environmental Procedures Manual*, allow the Regional Environmental Manager (REM) to approve certain CE determinations for Regional projects, or the Statewide Environmental Manager for Statewide projects. The majority of CE determinations and re-evaluations (90.7%, or 215 of 237) approved by the DOT&PF within this reporting period have met the requirements of this internal programmatic agreement, and are referred to as Programmatic Categorical Exclusions (PCEs) (Figure 2).

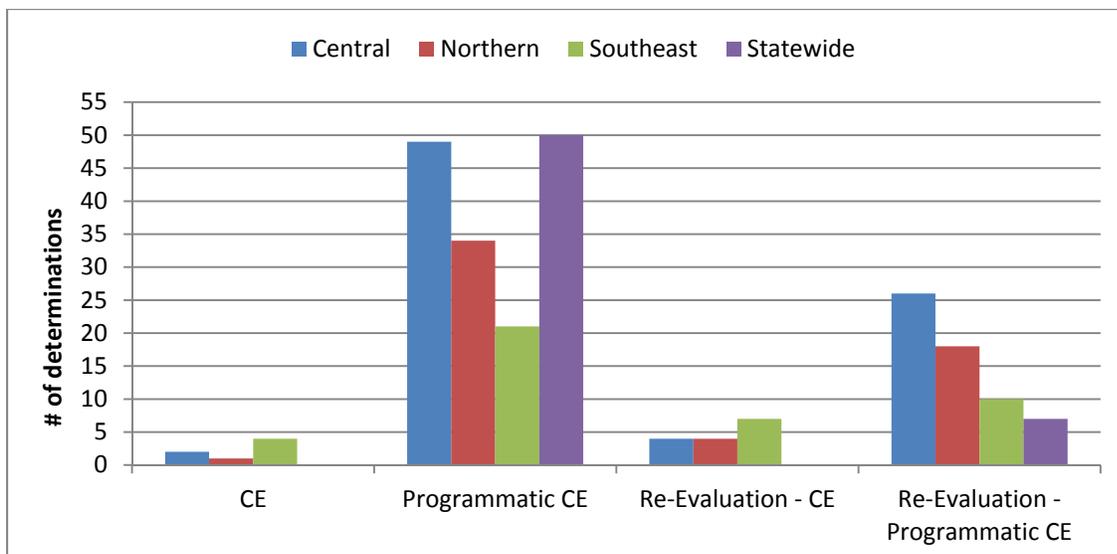


Figure 2. Number and type of determinations produced in each of the three Regions and SEO. CEs and re-evaluations of CEs are approved by the NEPA Program Managers in the SEO. Programmatic CEs (or PCEs) and re-evaluations of PCEs are approved by the REMs for Regional projects and the Statewide Environmental Manager for Statewide projects.

As evidenced in Figure 3, the majority of determinations approved by the DOT&PF under the MOU were classified under 23 CFR 771.117(c)(1), (c)(8), and (d)(1):

- (c)(1) – Activities that do not lead directly to construction, such as planning and research projects (29.5%)
- (c)(8) – Fencing, signing or signal projects (16%)
- (d)(1) – Highway modernization projects such as resurfacing, restoration, rehabilitation, and the addition of shoulders or auxiliary lanes (28.3%)

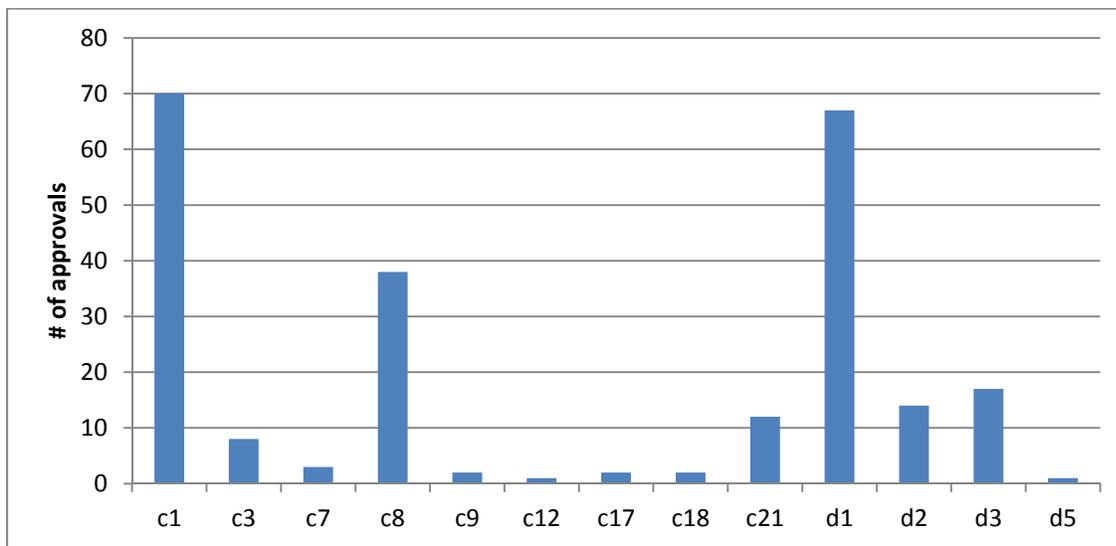


Figure 3. The number of determinations (CEs and re-evaluations) by category in 23 CFR 771.117 approved under the MOU during this 15-month reporting period (9/20-2012 – 12/20/2013). The c-listed activities are (c)(1) – (c)(21) and d-listed activities are (d)(1) – (d)(13). If the category is not shown, no CE or re-evaluations were approved in that category.

DOT&PF has the additional responsibility to determine the potential Section 4(f) impacts of those projects delegated under the MOU. As required in Stipulation IV(F)(1), DOT&PF provides a list of projects where a Section 4(f) approval was required and the type of approval used (*de minimis* impact finding, programmatic approval or individual evaluation) in each semiannual report to FHWA. Per Stipulation III(D)(2), any project requiring an individual Section 4(f) evaluation is excluded from assignment to the State. No individual Section 4(f) determinations were identified during the first 15 months of the renewed MOU.

During this reporting period, DOT&PF made two new Section 4(f) *de minimis* impact findings both of which occurred on the same project for two different properties protected under Section 4(f), and re-evaluated two projects (one of which was re-evaluated twice) with *de minimis* impact findings made prior to the renewal of the MOU. No new programmatic Section 4(f) determinations were made, and there have not been any re-evaluations of projects with prior programmatic Section 4(f) determinations. Projects requiring Section 4(f) determinations are only one percent of the projects approved under the MOU during this 15 month reporting period.

### **III. 6004 Program Processing Times**

The SEO tracks data in the 6004 Reporting Database to calculate the timeframes to complete the various steps in the 6004 Program approval process.

#### **Time Required for Approving Class of Actions**

The time required for the SEO's approval of a Class of Action (COA) is determined by the time elapsed between the date the SEO received the *Categorical Exclusion (CE) Class of Action Consultation Form* and the date that SEO approved the COA. On average, SEO approved COAs within 2.5 calendar days. However, COA approvals for c-listed activities average 1.7 days, whereas d-listed activities average 4.3 days.

#### **Time Required for Statewide Environmental Office Approval of CE Determinations**

The time required for the SEO's approval of a CE determination is determined by the time elapsed between the date the SEO received the CE determination and the date SEO approved the determination. On average, the SEO approved CE determinations 0.8 calendar days after the document was received during this reporting period. The average approval time is only slightly greater (1.1 calendar day) for those activities that require development of a *CE Documentation Form*, with a slight difference in the average for c-listed (1 day) and d-listed (1.3 days) activities requiring the *CE Documentation Form*. The maximum timeframe for any of SEO's approvals was seven calendar days. These averages include the review and revision process, which occurs between submission of the document and document approval.

### **IV. Areas for Improvement and the DOT&PF Improvement Measures Taken:**

#### **Summary of Quality Control Efforts:**

The SEO has changed its Quality Control (QC) process since the renewal of the MOU. The SEO believes these new procedures are consistent with the requirements of Stipulation IV(E) of the MOU. However, the DOT&PF *CE Assignment MOU Monitoring Plan* required by Stipulation IV(E)(4) needs updating to reflect these recent changes. The SEO is in the process of updating the *Monitoring Plan* and will submit it to FHWA when completed. Our current *Monitoring Plan* is available on the DOT&PF website at:

<http://www.dot.state.ak.us/stwddes/desenviron/resources/6004.shtml>

To summarize DOT&PF's current QC process, each delegated CE must be reviewed by someone who was not the preparer as well as the Regional Environmental Manager (REM), who must review the CE prior approving it. This ensures two reviews occur for each CE before final approval.

Additionally, the SEO staff reviews the majority of assigned CEs, including PCE determinations approved by the Regions, to ensure that the CE was classified correctly, and that the *CE Documentation Form* was prepared correctly. Those CE determinations requiring the SEO staff approval are required to have any errors corrected prior to signature by the SEO.

The SEO discontinued use of the *CE/PCE Quality Control Form* for documenting errors identified during the SEO's Review. This form was replaced by a QA/QC Microsoft Access Database, which is used to compile review comments and classify each comment by risk-level and type of error.

Risk levels are defined as follows:

- **High Risk** – The impact significance cannot be clearly determined from the environmental document provided.
- **Caution** – The document meets the requirements for a PCE, but the document/determination appears weak to the reviewing Statewide NEPA Program Manager, such as not consulting with a resource agency, or not field verifying online information for wetlands or other resources covered in a PCE.
- **Information** – The document contains non-critical typos, organizational, or formatting issues.

Error types include: incomplete information, conflicting statement, insufficient justification, and other.

Information regarding errors identified during the SEO's review of PCE determinations is now provided to the REM through internal Quarterly QA/QC Reports generated using the database. The Quarterly QA/QC Report provides the REM a way to quickly assess trends in the types of errors occurring in PCEs approved by the Regions.

Though the QA/QC Reports are generated quarterly, the REMs are immediately notified of any high-risk errors such as an error in CE classification or an error in use of the programmatic agreement. This process allows the SEO to work with the REMs to immediately rectify more serious errors within PCE determinations, while still providing them with a tool to identify and correct reoccurring lower risk errors.

During this 15-month reporting period, the SEO conducted 245 reviews of determinations approved under the MOU. This number differs from the total number of determinations approved as some determinations were reviewed multiple times and while others may not have been reviewed. Only one (of 237) determination approved under the MOU was not reviewed by the SEO during this reporting period.

The majority (82%) of SEO's reviews did not identify errors or concerns. Only 18 percent (44 of 245) of the reviews identified errors or other concerns in the documentation. Keep in mind that each review can result in multiple comments, and multiple comments may reference the same error throughout a document. These 44 reviews resulted in a total of 110 comments of varying risk level and error types.

Information and Cautionary comments encompass 92 percent of the total comments; High Risk comments are 8 percent of the total. The majority of High Risk comments are due to Incomplete Information error types (see Table 2). High Risk comments tend to involve Section 106, Section 4(f)/6(f), and the document approval process.

**Table 2.** The number of comments by risk level and error type

<b>Risk Level/Error Type</b>	<b>Count of Comments</b>
<b>High Risk</b>	<b>9</b>
Incomplete Information	5
Insufficient Justification	1
Other	3
<b>Caution</b>	<b>37</b>
Conflicting Statement	14
Incomplete Information	18
Other	5
<b>Information</b>	<b>64</b>
Conflicting Statement	19
Incomplete Information	15
Insufficient Justification	5
Other	25
<b>Grand Total</b>	<b>110</b>

The nine High Risk comments were generated by nine separate reviews. The SEO has documentation that eight of the High Risk errors have been resolved; this includes those that occurred on determinations approved by the SEO and in the Regions. The SEO and REM are in the process of resolving the final High Risk item.

To resolve these items, the NEPA Program Managers worked with the REMs to identify and implement appropriate corrective action. On two of the High Risk Section 106 errors, the Statewide Cultural Resource Manager and the Region's Professionally Qualified Individual (PQI) were also involved in the process

Since High Risk errors are concentrated in Section 106 and Section 4(f) processes, the DOT&PF is seeking opportunities to provide additional training in these areas. The DOT&PF will develop a *6004 Program Environmental Procedures Manual* chapter to provide updated guidance for the Section 106 process. After the chapter is approved, DOT&PF will provide training to the Regions regarding the new procedures. DOT&PF has already developed a *6004 Program Environmental Procedures Manual* chapter to provide guidance on the Section 4(f) process and has provided training to the Regions regarding the updated procedures. DOT&PF is now in the process of developing additional 6004 Program Section 4(f) training and has requested FHWA Section 4(f) training.

The SEO staff is also in the process of conducting its internal process review of projects assigned under the MOU. This process review focuses on projects that have multiple classes of action and/or multiple CEs or re-evaluations. This process review is intended to ensure that when conducting a class of action determination and/or re-evaluating projects:

1. The projects were classified correctly under 23 CFR 771 and properly assigned under the MOU, and the classification was included on the correct environmental forms;
2. The scope and project activity descriptions were consistent between the Class of Action, the CE, and associated documents [e.g. scoping, Section 106, and Section 4(f)]; and,
3. The appropriate re-evaluation process and environmental documentation forms were used.

In addition, for each of these projects, the Section 106 and Section 4(f) documentation is being reviewed to ensure:

1. The Section 106 information attached to the CE is appropriate for public viewing, and
2. The Regions are following Section 4(f) consultation procedures and that the SEO's determinations are appropriate.

**Summary of Training Efforts:**

Over the last 15 months, the SEO produced five chapters of the Alaska 6004 Program *Environmental Procedures Manual* and delivered multiple on-line training sessions on each of these chapters. The SEO also continued to hold monthly teleconferences with the Regional REMs and their staff to discuss policies, procedures, and regulation changes. In addition, SEO staff continued to attend Design Status Meetings in order to provide time to discuss project specific and/or overall process questions and concerns in-person.

The SEO hosted a Statewide Environmental Conference in December 2012 in Fairbanks, and will hold another February 11-12 2014 in Anchorage. As in previous years, these two day conferences are attended by staff from all Regions, the SEO, FHWA Alaska Division, and resource agencies. Agenda items include training, procedure and regulation updates, and 6004 Program implementation updates.

The SEO developed a Draft DOT&PF *Environmental Training Program Plan* detailing the training opportunities the SEO intends to provide to environmental staff; this draft plan was provided to FHWA Alaska Division Office on October 22, 2013.

**Table 3.** Training offered to DOT&PF Environmental staff.

<b>Date</b>	<b>Training</b>
12/5-6/2012	DOT&PF Statewide Environmental Summit
3/28/2013	Chapters 2 (Class of Action) and 3 (CEs) - 6004 Program Environmental Procedures Manual
4/4/2013	Chapter 6 (Re-evaluations) – 6004 Program Environmental Procedures Manual
4/22/2013 (Juneau) 4/24/2013 (Fairbanks) 4/25/2013 (Anchorage)	FHWA – Improving the Quality of Environmental Documents
6/4/2013	TRB Webinar – Expedited Planning and Environmental Review Process
6/24-27/2013	International Conference on Ecology and Transportation
7/15/2013 (Juneau) 7/17/2013 (Fairbanks) 7/18/2013 (Anchorage)	FHWA Places of Traditional Religious and Cultural Importance Workshop
9/23-25/2013	CBJ WESPAK Wetland Function and Values Workshop
9/26/2013	Chapter 9 (Section 4(f) / 6(f)) – 6004 Program Environmental Procedures Manual

A selection of training slides, presentations, and handouts such as the revised *Categorical Exclusion Documentation Form*, are posted on the DOT&PF environmental training website at <http://www.dot.state.ak.us/stwddes/desenviron/resources/training.shtml>.

## V. Quality & Timeliness Discussions

As part of the *FHWA Monitoring Review of SAFETEA-LU Section 6004 Categorical Exclusion Assignments* document<sup>1</sup>, six quality measures and one timeliness measure are qualitatively evaluated to assess the efficiency and productivity of the Section 6004 delegation. These measures are:

### Quality Measures

- CE decisions are appropriately and timely documented
- CE decisions are factually and legally supportable at the time the decision is made
- CE decision-making procedures comply with NEPA, 23 CFR 771.117, and the MOU
- DOT&PF has met staffing and quality control requirements of the MOU
- DOT&PF has complied with other State and federal legal requirements
- DOT&PF has complied with recordkeeping requirements

### Timeliness Measure

- The CE assignment reduces the time required for processing assigned CEs.

For the qualitative evaluation of these measures, the DOT&PF is relying on data from the 6004 Reporting and QA/QC Databases, program reviews and the issues that have become apparent since the MOU was signed.

### Discussion:

The Quality and Timeliness Measures have been met by the following 6004 Program accomplishments:

#### ***Resolution of All Findings from the FHWA CE Assignment Compliance Reviews***

Stipulation IV(F)(5) of the original MOU required the FHWA to conduct a CE Assignment Compliance Review at least every 12 months to verify DOT&PF's compliance with the Section 6004 MOU, evaluate the State's performance in carrying out the procedures established for CE assignment, and to evaluate the effectiveness of those procedures in achieving compliance. Three CE Assignment Compliance Reviews were conducted by FHWA in March 2010, February/March 2011, and December 2011. FHWA produced a report following each compliance review, the last of which was the FHWA February 2013 *Categorical Exclusion (CE) Assignment Compliance Review Final Report* (2013 Final Report). These reports detailed FHWA's findings, which is defined as "a statement pertaining to the compliance with a regulation, statute, FHWA guidance, policy or procedures, DOT&PF procedures, or the Section 6004 MOU" (2013 FHWA Final Report, p. 9).

In response to each of FHWA's reports, DOT&PF developed and implemented a *Corrective Action Plan* to address the findings identified during the prior compliance review. As a result of DOT&PF implementing these plans, the number of new findings and open findings from previous compliance reviews decreased each time a review was conducted (Table 4). In the 2013 *Final Report*, FHWA indicated that three findings from prior reviews remained "open," and that

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<sup>1</sup> <http://www.fhwa.dot.gov/hep/guidance/superseded/6004stateassumpt.cfm>

no new findings resulted from the third compliance review conducted in December 2011 (Table 4).

**Table 4.** The number of new and open findings identified during each FHWA Compliance Review.

<b>FHWA Final Report Year</b>	<b>New Findings</b>	<b>Open Findings from Previous Reviews</b>
2010	38	--
2011	8	6
2013	0	3

With FHWA’s approval of the May 2013 *Corrective Action Plan* on December 30, 2013, DOT&PF has resolved all of FHWA’s findings. This accomplishment demonstrates DOT&PF is administering a quality program which complies with the requirements of NEPA, 23 CFR 771.117, and the MOU under 23 U.S.C 326.

All of FHWA’s compliance review reports and the DOT&PF Corrective Action Plans can be found on DOT&PF’s website.

***Implementation of the 6004 Program Environmental Procedures Manual and Associated Forms***

SEO implemented a separate *6004 Program Environmental Procedures Manual* that is being developed concurrently with a Procedures Manual for non-assigned projects. To date, five chapters of the *6004 Program Environmental Procedures Manual* have been approved. The decision to produce a separate Procedures Manual for the 6004 Program has allowed the SEO to efficiently provide updated guidance to reduce errors in processing assigned projects.

In addition to implementing a *6004 Program Environmental Procedures Manual*, the SEO has issued revised and new forms associated with the 6004 Program procedures. The *Class of Action Consultation Form*, the *Categorical Exclusion Documentation Form*, and the *Environmental Re-evaluation Form* were revised to reduce documentation errors and ensure that sufficient analysis has been completed.

The SEO also adopted two new forms: an Expedited CE form and an Expedited Re-evaluation Form. These forms allow certain projects to be approved through an expedited process where conditions as described in the *6004 Program Environmental Procedures Manual* are met. These same approvals were allowed under previous procedures, but were documented via email and not on a standardized form. These procedures and forms were developed to improve DOT&PF’s method of documenting these decisions. This expedited process and associated forms have subsequently been adopted by the FHWA Alaska Division in processing non-assigned projects.

***Class of Action Processing Times and Appropriateness of Approvals***

The average amount of time it takes for the SEO to approve the *Class of Action Consultation Form* was three calendar days during this 15-month reporting period. The average timeframe for this approval has been consistent throughout the life of the 6004 Program. In addition, based on information in the *QA/QC Database*, there have not been any errors in the classification of CEs. As such, the DOT&PF feels that it has continually been successful in making appropriate and timely decisions on Class of Actions.

### ***Improved Project Tracking and Reporting***

The SEO has discontinued use of the Section 6004 monitoring tracking spreadsheet and replaced it with the 6004 Reporting Microsoft Access Database. The database allows the SEO to easily generate and analyze program data and produce reports to satisfy Stipulation IV(F)(1) of the MOU. Under the previous MOU, SEO was reporting to FHWA on a quarterly basis, which has now changed to semi-annual reporting under the renewed MOU. When reporting was done quarterly, the SEO averaged 3 to 4 hours of effort per report. Though the reports under Stipulation IV(F)(1) now cover a longer reporting period, the level of effort in producing the reports has not drastically changed.

### ***Success of QA/QC Procedures and Minimal High Risk Errors***

DOT&PF has met the quality control requirements listed in Stipulation (IV)(E) of the MOU during this 15-month reporting period. Though the *Monitoring Plan* is in need of revision to reflect current changes in our QC process, the implementation of these changes have improved the efficiency and utility of the QC process.

For example, the QA/QC Database has drastically improved the ease and time in which it takes to generate internal QA/QC Reports and analyze QA/QC data for reporting to FHWA. Summarizing QC process findings in reports to FHWA took the SEO staff three weeks under former procedures, since individual *CE/PCE Quality Control Forms* had to be manually compiled into a single spreadsheet and comments categorized by the type of error in order to summarize the types of errors being identified during the SEO's review. With the QA/QC Database, review comments for all projects are compiled in a single location, and are categorized by risk and error type as they are entered. The database can instantly generate a report from this data.

According to the QC data, the SEO has been able to review nearly 100 percent of all determinations approved during this 15-month reporting period. Only 18 percent (44 of 245) of SEO's reviews reported errors with the documentation, which is an improvement from the 28.8 percent reported in the 15 and 30 month reports submitted under the prior MOU. Only 3 percent of all reviews (9 of 245) conducted this reporting period identified high risk errors. The SEO has documentation that eight of these High Risk errors were resolved, and the remaining High Risk error is in the process of being resolved. As such, the DOT&PF believes the established QC procedure is successful in identifying and resolving any High Risk concerns and has improved the quality of the documentation to ensure that CE determinations have been made appropriately; based on legal, factual information at the time of approval; and in compliance with NEPA and other state and federal regulations.

### ***DOT&PF Environmental Staff***

DOT&PF has met the staffing requirements listed in Stipulation (IV)(D) of the MOU during this 15-month reporting period. The SEO has undergone some recent staff changes. Taylor Horne, who was previously a NEPA Program Manager, was promoted as the Statewide Environmental Manager responsible for administering the CE delegation program under the MOU; as a result, a NEPA Program Manager position is currently vacant. The SEO staff reporting to the Statewide Environmental Manager now consists of two Environmental Resource Specialists (storm water and historical resources), two Environmental Program Managers (storm water and historical resources), and two NEPA Managers (with one vacancy).

The two NEPA Program Managers have been able to effectively share the increased workload resulting from the vacant NEPA Program Manager position, and the SEO is actively recruiting to fill this position. Having full staffing of the three NEPA Program Manager positions is essential since each NEPA Program Manager is dedicated to working with a specific Region for projects that are assigned under the MOU.

In regards to Regional staff, two of the three REMs have been constant throughout the 15-month reporting period. The new REM, since the implementation of the MOU, has been trained on the procedures and responsibilities prescribed by the MOU. The SEO has provided ongoing mentoring to this REM. Since being trained, the newest REM has reduced the amount of QC issues on many of the CE determinations approved by the Region.

### **Perceived Time Savings for Processing Assigned CEs**

The DOT&PF continues to be satisfied with the perceived time savings experienced as a result of the CE delegation. On average, all CE determinations being approved by the SEO are approved the same or next day the document is received, with a maximum time for approval being seven calendar days. Whether the CE determination requires a *CE Documentation Form*, or is a c-listed or d-listed activity, does not greatly affect the review and approval timeline. Given that this average takes into account the review process and is less than the average timelines reported in the 15 and 30 month reports under the prior MOU (which ranged from 4.6 to 7.8 work days) demonstrates that the SEO and the Regions have improved the efficiency in processing CE determinations that do not meet internal programmatic agreements.

### **Perceived Time Savings for the FHWA Alaska Division Environmental Staff**

The MOU allows the DOT&PF to approve a majority of the CEs that fall under 23 CFR 771.117 (c) or (d) without FHWA review and approval. Prior to the CE delegation, the FHWA Alaska Division office performed the review and approval process of more *Categorical Exclusion Documentation Forms* than under the current MOU CE delegation. While FHWA review and approval process continues for those CE determinations that have been excluded from the MOU, it is conceivable that the resulted decrease in FHWA staff's CE determination workload has increasing the time available to work on Environmental Assessments (EAs), and Environmental Impact Statements (EISs). By continuing to administer the 6004 Program, it is the DOT&PF's perception that we have allowed the FHWA Alaska Division Office to devote more time and resources to these larger more complex issues.

## **VI. Recommendations**

At this time, the DOT&PF intends to continue administering the CE delegation per the terms of the existing MOU. DOT&PF understands that mandated regulatory changes under the Moving Ahead for Progress in the 21st Century Act (MAP – 21) will greatly impact the 6004 Program's administration by expanding the activities listed in paragraphs 23 CFR 771 (c) and (d). DOT&PF anticipates that the resulting amendments to the FHWA and Federal Transit Administration (FTA) joint procedures that implement the NEPA will expand the number and types of projects that can be approved under the MOU by the addition of new categorical exclusions. The SEO looks forward to working with the FHWA Alaska Division Office in determining the best way to adapt our policies and procedures to accommodate these changes.