

# STATE OF ALASKA

**DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**  
STATEWIDE DESIGN & ENGINEERING SERVICES DIVISION

**SEAN PARNELL, GOVERNOR**

3132 CHANNEL DRIVE  
P.O. Box 112500  
JUNEAU, ALASKA 99811-2500  
PHONE: (907) 465-6938  
FAX: (907) 465-2460

April 12, 2012

David C. Miller  
Division Administrator FHWA  
709 West 9<sup>th</sup> Street, Rm 851  
P.O. Box 21648  
Juneau, AK 99802-1648

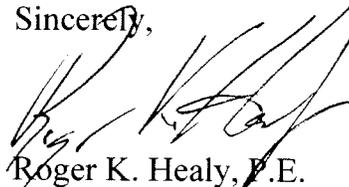
Reference: 6004 – 30 Month CE Delegation Performance Report

Dear Mr. Miller:

The Alaska Department of Transportation and Public Facilities (ADOT&PF) hereby submits the 30 Month CE Delegation Performance Report pursuant to the Memorandum of Understanding (MOU) between ADOT&PF and the Federal Highway Administration (FHWA) Alaska Division regarding State assumption of responsibilities under Section 6004(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

If you have any questions or wish to discuss this further do not hesitate to call me.

Sincerely,



Roger K. Healy, P.E.  
Chief Engineer

Enclosure: 30 Month CE Delegation Performance Report, April 2012

cc: (electronic) Benjamin White, Statewide Environmental Manager MS 2500

*"Get Alaska Moving through service and infrastructure"*

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

## **Categorical Exclusion (CE) Assignment 30 Month CE Delegation Performance Report (23 U.S.C. 326)**

**April 2012**



**Prepared by:**

**Ben White – Statewide Environmental Manager**

**Linda Heck – Statewide NEPA Manager**

**Dori Broglino – Statewide NEPA Manager**

**Taylor Horne – Statewide NEPA Manager**

## **Background**

On September 22, 2009, the Alaska Department of Transportation (DOT&PF) and the Federal Highway Administration (FHWA) signed a Memorandum of Understanding (MOU), pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Section 6004, codified in 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 action 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. Unless it is renewed, the MOU will expire on September 22, 2012.

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 was December 2010 and the 30<sup>th</sup> month was March 2012. 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.

The 15<sup>th</sup> Month Performance Report was submitted on January 31, 2011. This report, submitted on April 12, 2012, is the 30<sup>th</sup> Month Performance Report, per stipulation IV(F)(2) of the 2009 MOU.

## **Purpose**

The primary objective of the 30<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 statistical summary of the CE determinations that the DOT&PF has assumed responsibility for (Section I).
- Areas for improvement, and proposed the DOT&PF improvement measures taken (Section II).
- 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 III).

- Recommendations for improving the MOU that should be incorporated into the MOU renewal (Section IV).

**I. Statistical Summary from Quarterly Reports**

Stipulation IV(F)(1) of the MOU requires that the DOT&PF provides a quarterly summary report to the FHWA on all CE determinations made by the DOT&PF during that previous quarter. Information provided in these quarterly summary reports includes the project: name, state and federal-aid numbers (when available), CE classification, region, the CE approval date, and if any Section (4)f evaluations have been conducted. All of the quarterly reports are available on the DOT&PF website at:

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

The previously-submitted *Categorical Exclusion (CE) Assignment 15 Month CE Delegation Performance Report (15 Month Report)* utilized statistics from September 22, 2009 through December 31, 2010. This 30 Month report contains statistics compiled from data collected during January 1, 2011 through February 29, 2012, unless stated otherwise. Statistics used to represent the entire period of the MOU are compiled with data from September 22, 2009 through February 29, 2012.

Through February 29, 2012, DOT&PF has assumed responsibility for and approved 375 CE determinations or re-evaluation of CEs under the MOU. 192 CE determinations or re-evaluations have occurred during the second 15-month reporting period.

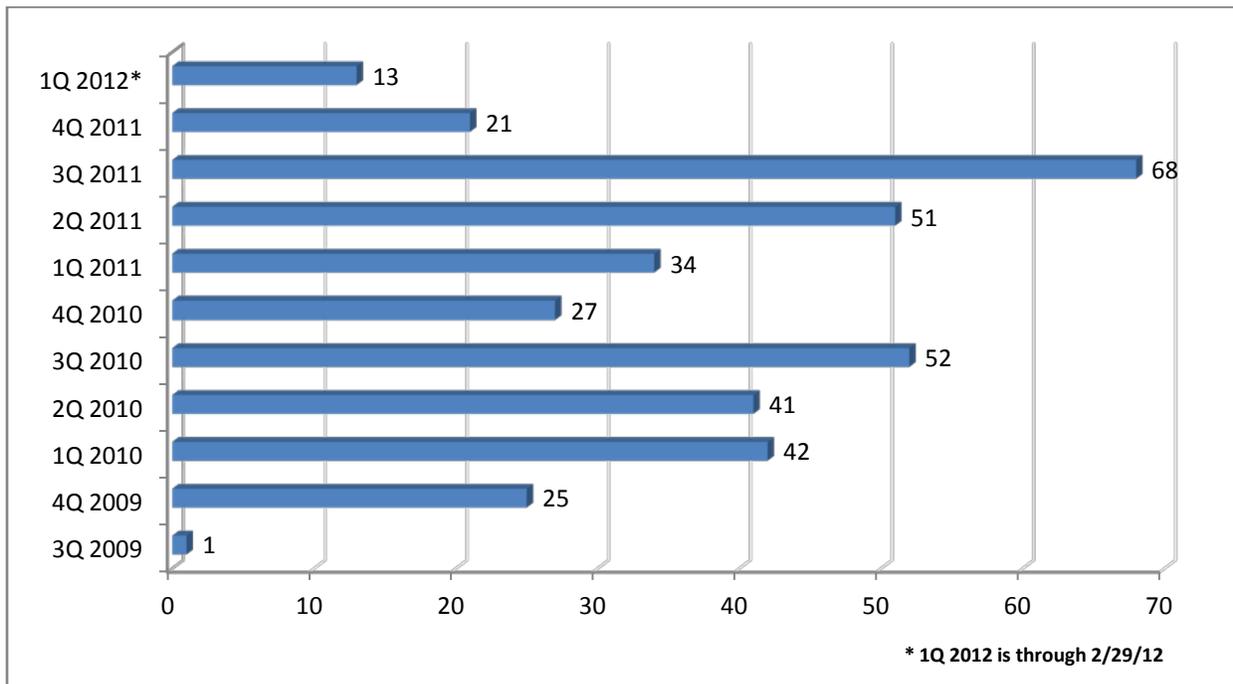
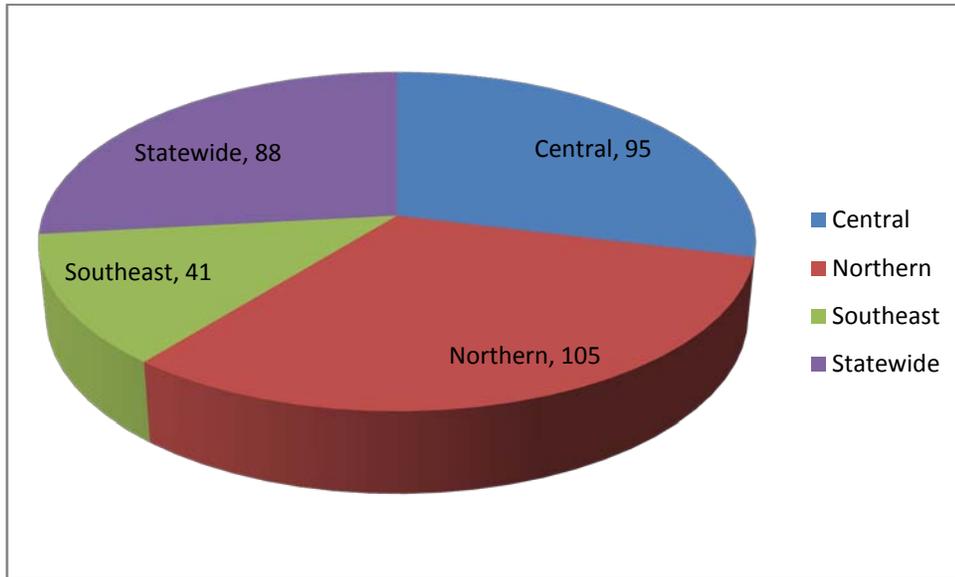


Figure 1. Number of CEs per quarter approved under the MOU.

Figure 1 above demonstrates that, the DOT&PF has completed on average 40 CEs per quarter, excluding 3<sup>rd</sup> Quarter of 2009 and 1<sup>st</sup> Quarter 2012 which are partial quarters. The trend in both 2010 and 2011 has been increasing activity in the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarters to meet the 3<sup>rd</sup> quarter obligation deadline and then a falling off of activity in the 4<sup>th</sup> quarter.



**Figure 2. Number of PCEs produced in each of the three Regions and the Statewide Environmental Office**

The DOT&PF has three Regional Environmental Offices (Regions) and a Statewide Environmental Office. During the development of the MOU, the DOT&PF developed an internal DOT&PF programmatic agreement that mirrors the previously approved programmatic agreements between the FHWA and the DOT&PF. These programmatic agreement approvals, as described in the *Alaska Environmental Procedures Manual*, allow for certain CE determinations to be approved by the Regional Environmental Manager (REM), and then reviewed by either the Statewide Environmental Office, or the FHWA, for concurrence that the activity is consistent with the conditions of the appropriate programmatic agreement. The majority of CE determinations, 329 of 375 (87.7%), that have been approved by the DOT&PF under the MOU have met the requirements of this internal programmatic agreement, and are referred to as Programmatic Categorical Exclusions (PCEs). Figure 2 shows a comparison of the total number of PCE determinations completed by each of the three Regions and the Statewide Environmental Office since implementation of the MOU.

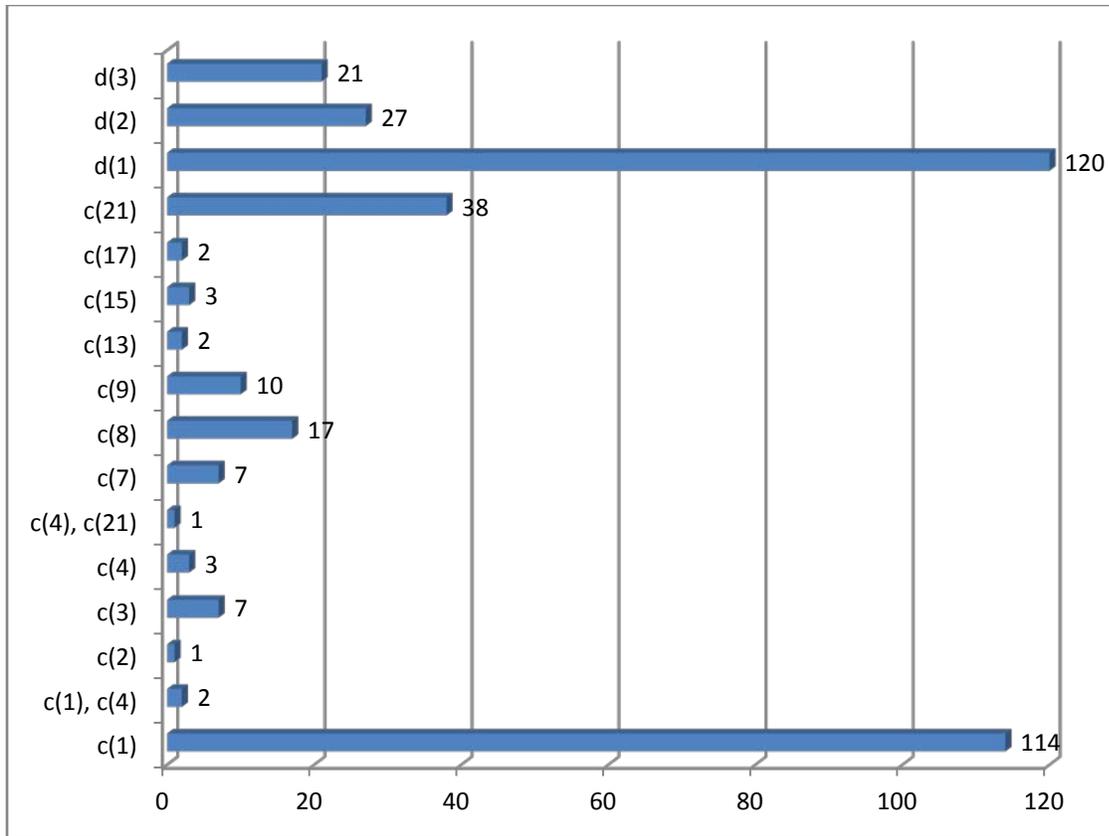


Figure 3. Activity categories of CEs approved by DOT&PF.

Figure 3 shows the activity categories of CE classifications for the projects approved by the DOT&PF under the MOU. As evidenced in Figure 3, 120 of 375 (32%) of the CEs have been 23 CFR 771.117 (d)(1) projects including all of the highway modernization projects such as resurfacing, restoration, rehabilitation, and the addition of shoulders or auxiliary lanes. Other types of projects that were frequently approved by the DOT&PF under the MOU included:

- activities that do not lead directly to construction, such as planning and research projects (c)(1) (30.4%)
- deployment of electronics, photonics, communications or information processing projects (c)(21) (10.1%)
- highway safety or traffic operation projects (d)(2) (7.5 %)
- bridge rehabilitation, reconstruction or replacement projects (d)(3) (5.6 %)
- fencing, signing or signal projects (c)(8) (4.5 %)

Additional responsibilities assigned to the DOT&PF under the MOU included the responsibility of the DOT&PF to determine the potential Section 4(f) impacts of those projects delegated under the MOU. Per the MOU Stipulation III(D)(2), the FHWA and the DOT&PF would exclude from assignment to the State any projects that would require an individual Section 4(f) evaluation. There have not been any individual Section 4(f) determinations identified during the first 30 months of implementing the MOU. Since signing the MOU, the DOT&PF reviewed two

programmatic Section 4(f) determinations during re-evaluations of CEs approved prior to the MOU, both of which occurred during the first 15-month reporting period.

Type of Section 4(f) Determination	Number
Programmatic 4(f)	2
<i>De minimis</i> 4(f)	1

**Table 1 – Section 4(f) Determinations**

The Statewide Environmental Office has been consulted on several projects regarding the potential constructive use of adjacent Section 4(f) resources. There has not been a determination of constructive use to date. There was 1 *de minimis* Section 4(f) impact finding made during the second 15-month reporting period, the only occurrence under the MOU. The information provided within Table 1, demonstrates that only 3 of the 375 (0.8%) CE determinations that the DOT&PF has processed under the MOU have required Section 4(f) impact determinations.

**Section 106 Delegation**

The responsibility for ensuring projects comply with Section 106 of the National Historic Preservation Act (36 CFR 800) is assigned to DOT&PF under the MOU. In April 2011, DOT&PF delegated all Section 106 documentation review and signature authority for project actions that fall under the MOU to the Regions through Chief Engineer Directives. This delegation allows the Regions to conduct the specified aspects of the Section 106 process in accordance with the regulations, Chief Engineer Directives, and programmatic agreements that are currently in effect and applicable to DOT&PF.

Each Region employs staff that meet the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) in a regional review capacity. These personnel are designated as the professionally qualified individual(s) (Region PQI) who are responsible to ensure that all approvals, determinations, and findings for all delegated Section 106 documents meet the requirements of the MOU. Actions that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, or that involve reporting or documentation of such actions, are carried out by or under the supervision of a Region PQI.

The Statewide Environmental Office PQI staff performs assistance, training, and program quality assurance tasks. The Region PQIs are encouraged to consult with the Statewide Environmental Office PQI staff or other Region PQI(s). Requests for major project assistance from Statewide PQI are made through a request from the Regional Environmental Manager (REM) to the Statewide Environmental Manager. Additionally, the Statewide Environmental Office PQI staff are responsible for Section 106 processing for Statewide projects.

From mid-June 2011 to early November 2011, the Northern Region requested and received assistance from the Statewide Environmental Office in processing Section 106 documents while the Region successfully recruited and trained a qualified person to replace the Region PQI who left DOT&PF employment. Currently, each Region has a designated Region PQI responsible for processing projects under Section 106 delegation.

From April 11, 2011 through February 29, 2012, DOT&PF has processed 57 projects under Section 106 delegation. Figure 4 shows a comparison of the number of projects processed under Section 106 delegation by the Regions and the Statewide Environmental Office.

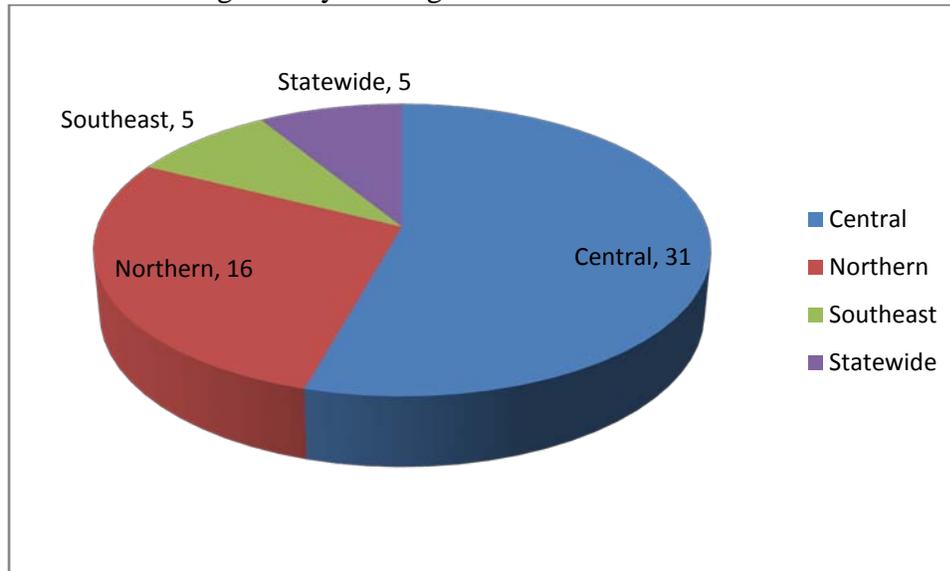


Figure 4 - Number of projects processed under the Section 106 delegation in each of the three Regions and the Statewide Environmental Office

## II. Areas for Improvement and the DOT&PF Improvement Measures Taken

### Summary of Quality Control Efforts:

The Statewide Environmental Office has carried out a Quality Control (QC) process consistent with the requirements of Stipulation IV(E) of the MOU, and the State Performance Requirements (outlined in sections A and C) of the *CE Assignment MOU Monitoring Plan*. To summarize the DOT&PF QC efforts, each delegated CE must be reviewed by someone who was not the preparer of the CE. Additionally, the Regional Environmental Manager for each Region must approve the CE and cannot be the reviewer. This ensures that two reviews take place for each CE before final approval.

Additionally, the Statewide Environmental Office staff reviews every assigned CE, including PCE determinations approved by the Regions, to ensure that the CE was classified correctly, the use of the internal DOT&PF programmatic agreement was appropriate, and the *Categorical Exclusion Documentation Form* was prepared correctly. Any errors that are discovered by the Statewide Environmental Office staff during the QC review are relayed to the REM. Those CE determinations that require the Statewide Environmental Office staff approval are required to have any errors corrected prior to signature by the Statewide Environmental Office. Errors within PCE determinations that are approved by the REM are only required to be corrected at the time of Statewide Environmental Office staff concurrence if there is an error in CE classification or an error in use of the internal DOT&PF programmatic agreement.

The QC process includes efforts by the Statewide Environmental Office to notify and work with the REMs to rectify errors found during the QC process at the time of the Statewide Environmental Office approval or concurrence. The Statewide Environmental Office provides the REM a copy of the *CE/PCE Quality Control Form* that documents any errors within the

*Categorical Exclusion Documentation Form* that is discovered during the Statewide Environmental Office review. Table 3 summarizes the most common QC issues that occurred during the second 15-month reporting period (January 1, 2011 through February 29, 2012). Note that multiple quality control issues may have been identified for a single project; therefore, the total number of occurrences exceeds the number of projects approved during the reporting period.

Quality Control Issue	Number of Occurrences
<b><u>General errors:</u></b>	
• Insufficient justification	103
• Incomplete information	88
• Conflicting Statements	95
<b><u>Purpose and need statement errors:</u></b>	
• Insufficient justification	16
• Incomplete information	1
• Conflicting Statements	2
<b><u>Section 106:</u></b>	
• Insufficient justification	7
• Incomplete information	8
• Conflicting Statements	10
<b><u>Other Errors:</u></b>	
• Preparer did not print name	1
• Not assignable activity	1

**Table 3 – CE QC Issues and Occurrences**

Overall, the QC process has been very effective, resulting in progressively fewer errors in the CE documents since the signing of the MOU. All Regions have made efforts to correct PCE errors at an increasing rate since the signing of the MOU, by working with the Statewide Environmental Office and regional staff to rectify identified errors.

The Statewide Environmental Office staff has conducted two internal process reviews of federally funded projects assigned to the State under the MOU. This process review examined both Statewide and Region environmental project files. The process review evaluated whether the projects were classified correctly under the MOU; the *Categorical Exclusion Documentation Form* was completed correctly; all applicable mitigation commitments had been documented; and the purpose and need statements and activity descriptions were clearly written and accurately described the intended work. The review was also intended to ensure that the project files contain all relevant clearance memos, determinations, correspondence, consultation, and technical studies that were necessary to support decisions. The results of the reviews were provided to the REMs at the conclusion of the review, allowing them to receive clarification regarding any findings and solicit recommendations on corrective actions in person from Statewide Environmental Office staff members.

### **Summary of Training Efforts:**

The Statewide Environmental Office staff attended and participated in several National Highway Institute (NHI) training sessions that were conducted in each of the three regions over the past 15 months. In May 2011, two Statewide Environmental Office staff participated in the three-day NHI NEPA course in Anchorage. In March 2012, a one day training session on NEPA was held in two of the three regions. During these sessions there was time allotted for members of the Statewide Environmental Office to explain the MOU and discuss the DOT&PF CE approval process. Also, in December 2011, a NHI training on Section 106 was held in Juneau in which Statewide Environmental Office staff discussed the MOU and regional delegation of the Section 106 process.

In addition to training, the Statewide Environmental Office staff also provided regular sessions within the Regions to discuss project specific questions, issues, or overall process questions. These sessions were intended to provide the Regional Environmental staff face-to-face time with the Statewide Environmental Office staff to allow the Regional staff to meet and discuss projects or process questions. Usually these sessions coincided with a Region's bi-monthly Design Status Meetings.

In 2011, two Statewide Environmental Conferences were held in which staff from all Regions, the Statewide Environmental Office, FHWA Alaska Division, and resource agencies attended. These two-day conferences provided valuable opportunities for DOT&PF to interact, discuss MOU-related subjects, and obtain guidance from resource agencies.

Additionally, since December 2011, monthly environmental teleconferences have been held in which new 6004 program information and other environmental process related topics are discussed. These teleconferences provide a means by which new policies and guidance are disseminated to the Regions, as well as a venue for enhanced communication between the Regions and the Statewide Environmental Office

### **III. Quality & Timeliness Discussions**

As part of the *FHWA Monitoring Review of SAFETEA-LU Section 6004 Categorical Exclusion Assignments* document, six quality measures and one timeliness measure are being qualitatively evaluated to help determine 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 the Quality Measures, the DOT&PF is relying on the DOT&PF *CE/PCE Quality Control Form*, the DOT&PF Section 6004 monitoring tracking spreadsheet, the two program reviews and the issues that have become apparent since the MOU was signed. Unfortunately, there was no baseline information for the quality of the CEs prior to the MOU as no quality measures were recorded by either the DOT&PF or the FHWA Alaska Division Office.

As a general qualitative assessment, the DOT&PF feels that the overall quality of the CE documents has notably improved as a result of the CE Delegation and the QC efforts. This statement is based on the Statewide Environmental Office staff's QC review of all assigned CE Documents and re-evaluations of *Categorical Exclusion Documentation Forms* that were approved by the FHWA prior to the MOU.

### **Quality Measures:**

1. During the initial implementation of the CE delegation the DOT&PF developed and instituted the use of the *Categorical Exclusion Class of Action Consultation Form (COA Form)* and developed a procedure for determining class of actions. Use of the *COA Form* will be mandatory. This process has greatly reduced the confusion and lack of documented class of action determinations within the project files. This process and form have also eliminated the amount of projects that were improperly classified. Additionally, the *COA Form* was updated in September 2011 to ensure that the use of programmatic agreement approvals is adequately documented, and the absence of unusual circumstances and significant environmental impacts are confirmed prior to approval.

Based on information gathered during the second 15-month reporting period, the average amount of time it takes for the Statewide Environmental Office review and approval of the *COA Form*, including obtaining additional project information by the Statewide Environmental staff, was 2.3 workdays. During the 30 months of the CE delegation, the average *COA Form* approval time has been 3.6 workdays.

2. Based on the DOT&PF *CE Quality Control Forms*, and the DOT&PF tracking spreadsheet, only 55 of the 192 projects (28.6 %) approved during the second 15-month reporting period reported errors of some sort with the *Categorical Exclusion Documentation Form*. During the 30 months of the CE delegation, 108 of the 375 projects (28.8%) reported errors of some sort with the *Categorical Exclusion Documentation Form*.

Those CE determinations that were approved by the Statewide Environmental Office staff were successfully updated to reflect accurate information. Some of those PCE determinations that were approved by the Regions, and obtained Statewide Environmental Office staff concurrence, have been updated. As such, the DOT&PF feels that the CE determinations have been made appropriately and based on legal, factual information at the time of approval.

3. The DOT&PF feels that all decision-making in regards to which projects are CEs has been in accordance with 23 CFR 771.117 and the MOU, with the exception of 3 instances (0.8%) during the 30 months of the MOU. Only one instance occurred during the second 15 month

reporting period. This instance occurred when a project was found to contain an activity that was not assigned to the State. Subsequently, the DOT&PF excluded the project from assignment under the MOU.

Overall, the DOT&PF feels that the determinations and decisions made have been done appropriately. When questions have arisen, the Statewide Environmental Office has consulted with the FHWA Alaska Division office to determine the appropriate level of environmental documentation under NEPA.

4. DOT&PF feels that they have met the staffing and quality control requirements listed in Stipulation (IV)(D) of the MOU. The Statewide Environmental Office achieved full staffing levels during the second 15-month reporting period, consisting of two Environmental Resource Specialists (storm water and historical resources), three NEPA Managers, two Environmental Program Managers (storm water and historical resources), one project coordinator, and the Statewide Environmental Manager. The three NEPA Managers are each dedicated to working on a specific Region's projects that are assigned under the MOU.

The three Regional Environmental Managers have been constant throughout the second 15-month reporting period.

5. Based on the DOT&PF *Quality Control Forms*, the DOT&PF has not had any issues complying with any other federal or state legal requirements.
6. The Statewide Environmental Office has worked with the three regional offices to review and recommend ways to improve project files. The Statewide Environmental Office has implemented a process by which Statewide and Regional project files will be reviewed for consistency and completeness. All CEs completed since September 2009 have the final CE and all associated documentation stored within a central project file at each of the Regional offices. During the review of the Regional project files any missing information, incomplete documentation, or other file issues are documented and reported to the REM during a close-out meeting.

The Statewide Environmental Office maintains both paper and an electronic project files. The electronic project files are centrally located on a server that is accessible to all Statewide Environmental Office staff.

### **Timeliness Measure:**

For evaluating the one Timeliness Measure, the DOT&PF considered three factors qualitatively:

- the qualitative time savings associated with the DOT&PF approving the CEs instead of the FHWA,
  - the amount of additional staffing hours required from the DOT&PF, and
  - the potential time savings for the FHWA Alaska Division environmental staff.
1. For context in evaluating time savings, it is worth noting that the amount of time required for CE approval by the DOT&PF varies. The Statewide Environmental Office has tracked the review time and approval dates as part of the CE delegation. This is the amount of time it

takes from receipt of the document until final approval or concurrence. Certain DOT&PF approved c-listed CE determinations (projects that do not lead directly to construction for example) are reviewed and approved the same day or the day after they are submitted. However, during the 30 months of CE delegation 41 of the 210 c-listed CE determinations required the development of a *Categorical Exclusion Documentation Form*, or at least Section 106 consultation, which resulted in an extended review and approval time. This made the average review time 4.6 workdays for every c-listed CE submitted to the Statewide Environmental Office since MOU.

For d-listed CEs (those activities that require the development of a *Categorical Exclusion Documentation Form*), the average review time is 7.8 workdays. This review time also includes the time necessary for the regions to address any comments provided in the *CE Quality Control Form* for each CE.

Note that since September 2011, Class of Action determinations have been made which include multiple activity categories. For example, a single project can include activities listed on both the c-list and the d-list under 23 CFR 771.117. This change was in response to FHWA program review findings. In this report, projects are considered “c-listed” if the associated Class of Action determination exclusively includes c-listed activities. Projects that contain c-listed and d-listed activities are considered “d-listed” projects in this report.

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. This FHWA review and approval process continues for those CE determinations that have been excluded from the MOU. The CE delegation does appear to save the DOT&PF time in obtaining approval for those CEs approved under the MOU. The significance of these time savings has not been quantified as FHWA-processed CE timeframes are not known to DOT&PF at this time. Overall, Statewide Environmental Office document review times have decreased over the past 30 months and the DOT&PF has been satisfied with the perceived time savings experienced as a result of the CE delegation MOU.

2. During the second 15-month reporting period, the DOT&PF Statewide Environmental staff has increased to three NEPA Managers that are responsible for reviewing activities under the MOU in each region. Additional administrative duties that the Statewide Environmental Office has undertaken since the MOU include the QC efforts for every CE that is approved, report compilation (quarterly, 15-month, FHWA program review report responses, monitoring plan, etc.), and consultation with the REMs on determining the appropriate category of CE for all assigned projects. Another large administrative duty of the Statewide Environmental Office is that of coordinating with FHWA on program reviews, reports and development of federal reporting requirements of the MOU. It is estimated that the Statewide Environmental Office spends approximately 30-60 minutes for the reporting of each CE approved under the MOU. For 375 CEs, this would result in approximately 190-380 hours of administrative effort over 30 months.

Additionally, the Statewide Environmental Office averages around 3-4 hours of effort per quarterly report. As 10 quarterly reports have been submitted so far, this roughly equates to another 30-40 hours of effort. Overall, the DOT&PF expends an approximate 500 hours per year performing the administrative responsibilities delegated to it with the CE Delegation MOU. Additionally, prior to the signing of the MOU, the DOT&PF estimates that the Statewide Environmental Office personnel spent well over 300 hours of time preparing the MOU and the associated guidance materials, procedures and *Categorical Exclusion Documentation Form*.

Overall, by signing the MOU, the DOT&PF has taken on additional duties and has expended additional time administering these duties. However, the DOT&PF feels that the additional time and effort has been worthwhile, due to the improved quality of the CEs and the perceived time savings that have resulted from not requiring FHWA approval on the majority of the CE documents processed.

3. When pursuing the CE delegation the DOT&PF also hoped that the FHWA Alaska Division office would be able to expend more effort on Environmental Assessment (EA) and Environmental Impact Statement (EIS) projects in the state. It is conceivable that the MOU has resulted in a decrease in FHWA staff's CE determination workload, thereby increasing the time available to work on non-assigned projects (e.g. non-assigned CEs, EAs, and EISs). No data currently exists to support or refute this idea, but it is a potential time savings benefit that could be associated with the CE Delegation. The DOT&PF would be interested in hearing from the FHWA Alaska Division office whether this has been a beneficial time savings that has resulted from the CE Delegation MOU regarding FHWA processing of EAs and EISs.

#### **IV. Recommendations**

At this time, the DOT&PF intends to continue administering the CE delegation through renewal of the MOU.

The DOT&PF intends to propose a reduction of the current MOU's reporting requirements during MOU renewal negotiations. Specifically, DOT&PF will propose that twice a year a list of CE determinations the DOT&PF approved during the previous six months will be required to be submitted to FHWA. Coupled with the upcoming implementation of an electronic document filing and reporting system, the FHWA will have sufficient notice of projects processed under the MOU while DOT&PF will benefit with a reduction of administrative effort.

The DOT&PF intends to propose that the minimum period between FHWA's performance reviews be increased to one year and the maximum period be increased to two years. This will reduce the administrative burden on both DOT&PF staff and FHWA, while continuing to afford FHWA ample opportunities to monitor DOT&PF's performance under the MOU.

Currently, Attachment 3 to the August 19, 2009 letter from FHWA to DOT&PF is used as guidance regarding what activities are considered assigned to the state under the MOU. There is uncertainty regarding the assignment of certain project activities that are not included in the discussion in Attachment 3, and FHWA has provided additional guidance to DOT&PF staff

during the past 30 months. DOT&PF will request FHWA amend the Attachment 3 list to incorporate guidance regarding these project activities, such as light bulb changing, electro mats for wildlife control, and cold weather vehicle plug-ins.

DOT&PF will propose that FHWA no longer require the reporting of multiple activity categories for projects processed under the MOU. Reporting multiple activity categories for projects makes it very difficult to track, record, and process the statistics required under the MOU when a single project may include activities listed on both the c-list and d-list under 23 CFR 771.117.

DOT&PF will propose that the reporting requirements that existed during the first 15 month reporting period be re-instated, wherein the DOT&PF classifies a project according the activity that is consistent with the intent of the project and requires the highest level of documentation (e.g. completion of the CE Documentation form).

The DOT&PF staff feels that the current MOU has been beneficial to the processing of federal-aid projects within the State of Alaska. The DOT&PF staff hope that the 6004 program will be improved with the renewal of the MOU, resulting in increased efficiencies in DOT&PF's ability to assume responsibility for certain categorical exclusions and the FHWA Alaska Division Office's ability to devote more time and resources to other larger more complex issues.