



U.S. Department  
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**Federal Highway  
Administration**

FHWA Alaska  
Division

Alaska DOT&PF

# Program Review

## **Categorical Exclusion (CE) Assignment Compliance Review (23 U.S.C. 326)**

**May 2011**



**FINAL REPORT**



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## **Executive Summary**

The purpose of this compliance review is to assess the performance of the State in its assumption responsibilities under the *Memorandum of Understanding between Federal Highway Administration, Alaska Division and the Alaska Department of Transportation and Public Facilities, State Assumption of Responsibility for Categorical Exclusions, executed on September 22, 2009* (MOU). The State's performance is important as an ongoing matter and will be considered when it is time to determine whether or not to renew the current MOU when it expires. This is the second review of the State's assumption of environmental responsibilities and it will evaluate how the issues or problems identified as findings and observations in the "*Program Review Final Report, Categorical Exclusion (CE) Assignment Compliance Review (23 U.S.C. 326), July 2010*" (2010 Final Report) have been resolved or addressed.

A team of three (3) individuals from the Federal Highway Administration (FHWA), representing the Alaska Division Office (Alaska Division), the FHWA Resource Center, and the Headquarters Office of Project Development and Environmental Review, visited two (2) Alaska Department of Transportation and Public Facilities (DOT&PF) Region offices and one (1) Statewide office to conduct monitoring tasks between February 23 and March 3, 2011. This team conducted interviews with key project development staff at the State as well as in the Alaska Division office. They also reviewed project records for CE projects that were determined assignable under the MOU, and projects judged by the state not to be assignable under the MOU. No project files or financial files were reviewed in Alaska Division. The Team reviewed 46 project files from 52 approval actions at DOT&PF offices. Based on this assessment, DOT&PF has carried out its assigned responsibilities adequately and in good faith. An outcome of this monitoring are a number of corrective actions that all offices visited should consider implementing in order to improve the effectiveness and efficiency of the State's processing of projects categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement.

The specific objectives of the review were to:

- Verify that CE determinations and documentation are appropriate, and that they comply with the applicable laws, regulations, and the provisions of the MOU.
- Review DOT&PF's process for the identification and documentation of CE determinations.
- Review the adequacy of DOT&PF's provision of financial and staff resources and the training programs associated with the CE Assignment Program; verify that staff qualifications and expertise are commensurate with decision making capacity.



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- Review the scope, methodology, and the results of DOT&PF's self-assessment of the CE Assignment Program.
- Review DOT&PF's performance monitoring activities to track time and cost savings attributable to the CE Assignment Program.
- Review the effectiveness of the lines of communication between DOT&PF Headquarters and DOT&PF Regions in disseminating new national policies and environmental guidance.
- Verify the accuracy of the Quarterly Reports submitted to the FHWA.

In addition, the Team used the review to evaluate the status of the corrective actions proposed by DOT&PF in response to the findings and observations made in the 2010 Final Report. This monitoring review differs from the one completed in 2010 in that the Northern Region Office was not visited nor was the Statewide Environmental Office (SEO) located in Anchorage or Fairbanks (some project files for Northern Region projects were reviewed in the SEO located in Juneau). Also, where the goal of the first review was to inspect all or nearly all the project files processed by the state, this review considered a stratified sample of types of project files. To a lesser extent, this review considered the understanding and actions of the Alaska Division staff related to their role in the project development process, for projects assumed by DOT&PF.

The general conclusions resulting from the objectives of the review are:

- 1) The Review Team understood that several of the DOT&PF Environmental Manual chapters related to 6004 would be reviewed and revised based on findings made in the 2010 Final Report. The Team learned through interviews and through review of project files that the procedures and forms related to processing programmatic CEs still need revision and clarification related to MOU requirements. Project records suggest there continues to be some confusion among staff in how to comply with MOU documentation requirements for Programmatic CE projects (regarding documenting the necessary MOU approval findings) and 'c' listed project processing (regarding documenting consideration of project impacts and unusual circumstances).
- 2) The Review Team also found that the Project Information Sheet (PIS) which is still relied upon by FHWA Area Engineers to determine whether or not a CE project assumed by the state is complete, has not been revised nor have the deficiencies in procedures been addressed so that FHWA may reliably determine whether or not a project for which there has been a request for Authority to Proceed (ATP), has a State-issued CE approval. Information gained from interviews confirms that DOT&PF staff recognizes this deficiency and have begun to develop a comprehensive solution. We applaud the vision in developing this solution but also urge the State to implement short term corrective actions to address this deficiency.



- 3) The 2010 Final Report included several general conclusions about “systemic deficiencies” in fulfilling responsibilities under the MOU in one (1) Region office, and the appearance of insufficient staff resources. This Review Team found dramatic and significant changes in the Region office taken by DOT&PF to address the systemic deficiencies. Those changes include not only staffing changes and increases, but also staff reorganization, attention paid to project file structure, and changes in the quality and completeness of project records. Based on information gained from interviews, there does not appear to be indications of insufficient staffing capacity.
- 4) As a result of findings and observations in the 2010 Final Report, the State proposed a number of corrective actions that relied upon staff training. Staff in the SEO has implemented training specifically tailored to the provisions of the 6004 MOU, as part of more general NEPA training. Additionally, in spite of constraints imposed by staff vacancies, SEO staff has completed mentoring-style training in Region offices to improve the capabilities of staff and to ensure greater consistency in project processing and decision making. Also, based on information gained from interviews, the SEO is now developing a comprehensive training program to assure that individuals recognize their roles and responsibilities according to the Section 6004 assignment, whether or not they work in the Region or the SEO.
- 5) The 2010 Final Report contained a finding that the FHWA Division must guard against inappropriate involvement in 6004 decisions. This review also identified an instance where Alaska Division staff acted in a way that undermined the authority of DOT&PF staff in their exercise of decision making under the provisions of the MOU. In this instance, the DOT&PF made a decision to exclude a project from assignment under the MOU, but the Alaska Division staff cast doubt on the reasoning of that decision. The result of the Alaska Division staff’s involvement likely caused confusion for the DOT&PF Regional staff regarding the assignability of projects and undermined the authority of the SEO to make these decisions. This instance reveals that it is critical for the FHWA to abide by the provisions of the MOU and eliminate any inappropriate involvement in the State’s decisionmaking process assumed under the provisions of the MOU.

During the review, the Team identified five (5) best practices in DOT&PF offices that included:

- 1) The SEO has conducted detailed and high quality project level quality control reviews, and documented corrective actions in project files.



- 2) The SEO staff has, despite being understaffed due to retirements and delay in filling vacancies, conducted program level monitoring review visits to each of the Regions to conduct file reviews. The results of these visits and specific corrective actions have been documented in memoranda that appear in specific project files that our team reviewed. Further, these memos appear to have been a learning tool for the Region offices.
- 3) The Southeast Region Office (SER) has implemented several dramatic changes that reflect a paradigm shift in project file management practices, resulting in its being the office with the most improved files reviewed.
- 4) During this review, the Team reexamined a project file from one (1) of the projects that prompted a finding in 2010 where evidence of compliance with an applicable environmental law was lacking in a CE approved by FHWA prior to the MOU. A Re-evaluation completed subsequent to the 2010 Final Report provided documentation that DOT&PF had conducted appropriate studies to rectify the previous shortcomings and to fulfill their responsibilities under the terms of the MOU.
- 5) In November 2010, the SEO began regularly distributing to the Region offices the 6004 project tracking spreadsheet that documents project status from the class of action decision through the CE approval. This distribution to the Regions helps those offices verify which projects should be included in the Quarterly Reports.

The results of this review begin on page 11 with a list of Major Observations and Findings and continue through the Summary of Additional Findings on page 20. Appendix A provides the details of the findings that remain open and Appendix B is a compilation of 2010 Findings that have been closed as a result of this review.

Over the next few years, the Alaska Division and DOT&PF will work individually and as a team to implement the changes necessary to address the items identified in this review, and from upcoming monitoring reviews undertaken by either agency. Specific activities the Alaska Division must undertake include, but are not limited to:

- Targeted training related to Section 6004 roles and responsibilities, including authority of the State's decision making under the MOU.

Specific activities the DOT&PF must undertake include, but are not limited to:

- Continuing to develop and implement targeted training related to file and records management, 6004 processing and documentation procedures, and NEPA project development requirements.
- Updating manuals, policies, procedures, and forms.



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- Developing shared understanding on the scope of actions assignable under the MOU, based on common interpretation of actions listed in regulation.

Specific activities the agencies will undertake together include, but are not limited to:

- Development of short and long term corrective actions to address deficiencies in communication of information on completed CE project status, from the State to the Alaska Division Office.
- Joint training on 6004 process and procedures, including updates.

As a direct result of the 2010 Compliance Review, and the DOT&PF's 15 month Performance Report and MOU Monitoring Plan, the FHWA now believes the 6004 assignment to be improved to an area of medium risk deserving of continued evaluation and monitoring.



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## **Background**

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, the Alaska Department of Transportation and Public Facilities (DOT&PF) assumed the Secretary of Transportation's (Secretary) authorities and responsibilities for determining if a transportation project qualifies for a Categorical Exclusion (CE), listed in 23 CFR 771.117. For assigned projects categorically excluded from the requirement to prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA), DOT&PF also assumed the Secretary's authorities and responsibilities for coordination and consultation with Federal resource agencies for all associated Federal environmental laws. These authorities and responsibilities include Endangered Species Act Section 7 informal consultations with the U.S. Fish & Wildlife Service and NOAA National Marine Fisheries Service, Section 106 consultations with the State Historic Preservation Officer and the Advisory Council on Historic Preservation, and coordination with the U.S. Environmental Protection Agency for project-level air quality conformity findings.

For the CE Assignment, the State of Alaska assumed the legal responsibility for its NEPA decisions, and it is subject to Federal court jurisdiction. The State waived its 11<sup>th</sup> Amendment sovereign immunity against actions brought by its citizens in Federal court for the purpose of NEPA Assignment. On September 22, 2009, DOT&PF entered into the formal Section 6004 MOU with the Federal Highway Administration (FHWA) Alaska Division to implement the CE Assignment Program in Alaska. The MOU outlines specific terms that describe DOT&PF's new roles and responsibilities under the CE Assignment.

The Section 6004 MOU [Stipulation IV(f)(5)] establishes that a CE Assignment Compliance Review in Alaska will be conducted at least every 12 months. This will be the second Compliance Review conducted.



## **Purpose and Objective**

The overall purpose of the monitoring review is to verify DOT&PF's compliance with the provisions of the Section 6004 MOU, to evaluate the State's performance in carrying out the procedures established for the CE Assignment, and to evaluate the effectiveness of those procedures in achieving compliance. In evaluating the State's compliance with the provisions of the MOU, this review also considers procedures and actions of Alaska Division Staff in the project development process. The overall objective is to identify opportunities for enhancing the quality of CE decision-making and develop baseline information for future evaluation.

A key component of the Section 6004 MOU is the six (6) performance areas that the FHWA will use in evaluating the success of the CE Assignment in Alaska. The following performance areas establish the foundation for the objectives of this review:

1. Compliance with governing laws, regulations, and the Section 6004 MOU.
2. Processing projects assigned under the MOU: State identification, documentation, and review of effects.
3. Excluded projects: Determination and documentation of CEs excluded from the CE Assignment Program, and retained by FHWA.
4. Adequate State resources (including provision of financial resources), qualifications, expertise, standards, and training.
5. Effective State quality control.
6. MOU performance monitoring and quality assurance.

The Review Team will correlate these performance areas with the following measures of assessment:

1. CE decisions are appropriately and timely documented, based on the regulatory criteria in 23 CFR 771.117 (c) and (d).
2. CE decisions are factually and legally supportable at the time the decision is made.
3. CE decision-making procedures comply with NEPA, 23 CFR 771.117, and the MOU.
4. The State has adequately met the provision of financial resources, staffing and has practiced quality control requirements sufficient to fulfill the requirements of the MOU.
5. The State has complied with other Federal and State requirements.
6. The State has complied with recordkeeping requirements.



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Given the performance areas in the MOU the objectives of this compliance review are as follows:

- A.** Verify that the CE determinations and documentation are appropriate, and that they comply with the applicable laws, regulations, and the provisions of the MOU.
- B.** Review DOT&PF's process for the identification and documentation of CE determinations.
- C.** Review the adequacy of DOT&PF's provision of financial and staff resources and the training programs associated with the CE Assignment Program; verify that staff qualifications and expertise are commensurate with decision making capacity.
- D.** Review the scope, methodology, and the results of DOT&PF's self-assessment of the CE Assignment Program.
- E.** Review DOT&PF's performance monitoring activities to track time and cost savings attributable to the CE Assignment Program.
- F.** Review the effectiveness of the lines of communication between DOT&PF Headquarters and DOT&PF Regions in disseminating new national policies and environmental guidance.
- G.** Verify the accuracy of the Quarterly Reports submitted to the FHWA.



## **Scope and Methodology**

The Review Team visited the DOT&PF SEO in Juneau to conduct interviews and review project files to look for documentation of quality control efforts, evidence of on-going guidance provided to the Regions, documentation of any corrective actions taken, and documentation related to statewide monitoring and evaluation.

The Team gathered information on financial and staff resources committed to implement the provisions of the MOU, to assess if DOT&PF has adequate oversight processes in place for the CE assignment.

The Review Team visited the DOT&PF Region Offices in Juneau and Anchorage to review project files and conduct staff interviews. The Team attempted to review all projects that received approvals following the 2010 Compliance Review. The site visits were closely coordinated with DOT&PF Headquarters and Region staff. A closeout meeting was held via telephone on April 19, 2011.

The provisions of the Section 6004 MOU are the primary criteria which the Review Team is using to verify compliance. In addition, the Review Team considered the six (6) performance areas in the Section 6004 MOU as the applicable standards by which the overall environmental outcome will be judged for efficiency and effectiveness.

The Team reviewed 46 project files for 46 projects, and 52 decisions (multiple decisions may occur for an individual project, for example if the project is re-evaluated). The Team reviewed most projects listed in the third, fourth, fifth, and sixth Quarterly Reports plus some projects believed to be pending formal assignment. Several projects were also intentionally reviewed that are not assigned, to observe project documentation and notification. File reviews of assigned projects were used to obtain a stratified sample of files that represent 'c' listed projects, 'd' listed projects, and projects that were re-evaluated. This approach was selected based on findings from the 2010 Final Report.

Interviews were conducted for the following staff:

- DOT&PF Chief Engineer (1)
- DOT&PF Statewide Environmental Manager (1)
- DOT&PF Region Environmental Manager (2)
- DOT&PF Region Design and Environment Group Chief (2)
- DOT&PF Environmental Analyst (1)
- FHWA Area Engineer (3)



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## **Team Members**

Tim Haugh, Environmental Program Manager of the Alaska Division, served as the Review Team Leader. He was responsible for coordinating the Team's activities, keeping the review on schedule and alerting management to any issue that may affect the completion of the review. Tim has a broad understanding of the provisions of SAFETEA-LU Sec. 6005 and has performed numerous audits of Caltrans' 6005 program. He is a NEPA and Section 4(f) subject matter expert and has extensive knowledge and experience of the environmental program.

Owen Lindauer, FHWA HQ Project Development Specialist is a member who joins the Review Team from the FHWA Office of Project Development and Environmental Review. He brings extensive knowledge of the SAFETEA-LU Sec. 6004 provisions in that he led the development of the preparation of all Sec. 6004 guidance and the Sec. 6004 template MOU. He has oversight in the implementation of Sec. 6004 in California and Utah as well, and brings a national perspective to this program review. He is also a recognized NEPA, Section 106 of the NHPA, and Section 4(f) expert.

David Grachen, FHWA Resource Center Environmental Specialist is a member who joins the Review Team from the Resource Center's Environmental Technical Services Team. He brings extensive knowledge of SAFETEA-LU Sec. 6005 provisions and experience conducting audits of Caltrans' assumption of environmental responsibilities under the pilot program. He is also a recognized NEPA project development, Section 4(f), Section 106, and monitoring environmental commitments expert.



## **Observations and Findings**

Observations and Findings are organized as: Major Observations and Findings – These are comprehensive explanations that have been provided for more complex situations, involve multiple observations/ findings, or apply to multiple MOU stipulations; and Summary of Additional Findings from the 2010 Final Report that Remain Open – This provides a summary of additional findings, observations, corrective actions, and recommendations based on staff interviews and project file reviews.

Appendix A provides the detailed findings from the 2010 Final Report that remain open, while Appendix B details the findings from the 2010 Final Report that have been closed. Additionally, a Master File Review Spreadsheet that identifies findings and observations, based on file reviews alone, by State project number, is located in Appendix C.

Information is presented as:

**Finding-** A statement pertaining to compliance with a regulation, statute, FHWA guidance, policy, or procedures, DOT&PF procedures, or the Section 6004 MOU.

**Observation-** Circumstances noted where FHWA believes a process or procedure may be improved.

**Note-** All Findings/Observations will identify a cause and effect.

**Corrective Action –** An action required to address a deficiency identified in a finding.

**Recommendation –** The Team's suggestion on how to improve a process or procedure based on an Observation.

### **Major Observations and Findings**

#### **1) MOU Stipulation I(A,B); III(D); and IV(A,B) – Questionable Assignment of Projects**

**Stipulation I(A,B) in the MOU defines the scope of activities the State may determine as a designated activity for which the State may assume the FHWA's NEPA responsibilities and liabilities. The MOU defines those activities listed in regulation in 23 CFR 771.117(c) and the example activities listed in 23 CFR 771.117(d). Stipulation III(D) identifies conditions that would exclude a project**



**from being assignable and Stipulation IV(A) makes the State responsible for compliance with governing laws, regulations and the MOU, and requires the State to make all determinations under the 6004 MOU in accordance with 23 CFR 771.117(a) and (b) and succeeding regulations. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations.**

#### 2011 Finding

One (1) project file was reviewed that did not contain adequate documentation to verify that it was an assignable category of action or had met Stipulation IV. The project file contained a reference to a scope of work that might render the project not assignable, but contained no documentation addressing the questions regarding applicability of assignment. DOT&PF should adequately document the basis for its assumption of CE responsibilities for each project. The cause of this finding is unknown. The effect is an increased risk to the State that a project may not be properly assigned to the State, which would violate the terms of the MOU.

During development of this report, the Alaska Division was formally notified by the DOT&PF that the project files were reexamined and that the project has been excluded. Consultation between the agencies has identified a corrective action that will resolve this finding. We consider the finding closed at this time.

## **2) MOU Stipulation IV(F)(1) – MOU Performance Monitoring and Quality Assurance: Quarterly Reports**

**Stipulation IV(F)(1) requires the state to submit a report of its CE determinations to FHWA on a quarterly basis. This stipulation also requires the State to apply performance considerations regarding the quality and consistency in the State's administration of its responsibilities under the MOU.**

#### 2010 Final Report Finding

When the 2010 Final Report was released, the DOT&PF had submitted two (2) Quarterly Reports of CE decisions. The first Quarterly Report was complete and accurate, but was not provided by the due date. The second Quarterly Report was submitted on time, but contained errors and/or omissions. At the time of the review, the Quarterly Reports had not been posted on the DOT&PF website as required by the MOU. The reports were posted on the State's website subsequent to the review.

#### 2010 DOT&PF Proposed Corrective Action

The SEO developed a tracking spreadsheet at the onset of the assignment of NEPA responsibilities to the State under the 6004 MOU. In order to improve the accuracy of the State's Quarterly Reports to FHWA, the SEO is continuing to work with the Region



offices on the development of a method by which projects could be tracked electronically and would be accessible to both the Region and SEO staff.

### 2011 Finding

There have been six (6) Quarterly Reports submitted since the execution of the MOU. Quarterly Reports for the third, fourth, fifth, and sixth quarters have been submitted since the 2010 Review was conducted. All of these reports have been submitted prior to the due date; however, all appeared to contain omissions of some State and/or Federal project numbers. The Team recognizes that some State and/or Federal project numbers have not been assigned at the time Quarterly Reports are submitted; in those circumstances however, we believe it would be a benefit to the State and FHWA for numbers to be recorded in the reports following their identification. During our review, the Team identified two (2) approval actions that had been omitted from the fifth Quarterly Report. We also learned from interviews that the fifth Quarterly Report errantly reported an approval action which did not take place and failed to report an additional project approval. We were informed that the State intends to submit a revised Quarterly Report to remedy these discrepancies.

Information gathered during interviews for the 2011 Review reveal that the State has recently implemented corrective actions aimed at improving the Quarterly Reports by devising a spreadsheet to track CE approvals and verify those approvals with the Region Offices. The Review Team believes these efforts should improve the quality of the Quarterly Reports and correct the errors and omissions that have existed in Quarterly Reports submitted to date. The cause for the errors and omissions may have been the lack of a shared data base to collect, track and manage information for assigned projects. The effect is uncertainty regarding which projects have been approved and should be included in the Quarterly Report. The corrective action may include a proposal described during an interview with SEO staff noting a long term solution that involves the development of an electronic documentation and tracking system. The staff member also acknowledged that DOT&PF would need to develop a short term corrective action until the electronic tracking system is developed. The DOT&PF should propose a short term remedy to address the weakness of the current system and we recommend the State aggressively pursue a long term solution. In addition, the State should submit a revised fifth Quarterly Report to address the previously noted errors and omissions.

### **3) MOU Stipulation II(B)(3)(c); IV(B)(2,4); IV(E)(1); DOT&PF Procedures for processing and documenting Programmatic Categorical Exclusions (PCEs)**

**Stipulation II(B)(3)(c) requires that, as part of any request for FHWA authorization for funding or other action, the State will provide to the FHWA evidence that the CE processing and any other environmental responsibilities assigned under this**



**agreement have been completed in accordance with this MOU. Stipulation IV(B)(2) requires the State to carry out a review of proposed CE determinations, including consideration of environmental analysis and project file documentation, prior to the State's approval of the CE determination. It further states that the process shall include at a minimum, review of the documentation and proposed determination by a competent reviewer who is not the preparer of the CE documentation. Stipulation IV(B)(4) requires that the State document its approval of the CE determination with the printed name, title, and date of the State official approving the determination. Stipulation IV(E)(1) requires the State to carry out regular quality control activities through the SEO to ensure that its CE determinations are made in accordance with applicable laws and the MOU.**

#### 2010 Final Report Finding

The Team reviewed several project files that provided evidence that Regions had been unresponsive to comments provided by the SEO as a part of their quality control reviews when issuing concurrence on PCEs.

#### 2010 DOT&PF Proposed Corrective Action

The SEO will continue to work with all three (3) Regions to develop and issue procedure and process clarification (through a Chief Engineer Directive) on how to address the processing of PCEs. Clarification on processing PCEs will be emphasized in additional 6004 process training provided to all three (3) Regions.

#### 2011 Finding

Ten (10) of 28 PCE project files had no printed name for the CE approval on the CE documentation form. The State should document all the information required by the MOU for CE approvals. The possible cause is the absence on the CE documentation form of a space for the approving official to print their name. The effect is inadequate documentation to demonstrate compliance with the MOU. As a corrective action the State should modify the CE documentation form to include a space for the printed name of the approving official.

#### 2010 Final Report Finding

Project file reviews and interviews reflected confusion related to the process for determining the applicability for use of DOT&PF's internal PCEs. The text in the Alaska Environmental Procedures Manual infers, but does not explicitly state, that the 6004 NEPA Managers will be consulted on the appropriateness of using an existing PCE for an assigned project. This was the intent of the authors of the Manual. This discrepancy has led to substantial confusion regarding roles and authorities under the assignment.

#### 2010 DOT&PF Proposed Corrective Action

The SEO does not feel it is necessary to revise the Alaska Environmental Procedures Manual to address this finding. The SEO and Region offices are appropriately



determining the use of a PCE on a case by case basis in accordance the Alaska Environmental Procedures Manual. The SEO has an active role in determining the applicability of an internal programmatic agreement to an activity. This determination is made up front during consultation with the REM per the Alaska Environmental Procedures Manual, when sufficient information about the action is known. There are times when it can be determined that a project fits the conditions of one of the internal programmatic agreement approvals during the class of action consultation. There are, however, times when it is not known during this initial consultation if an action will meet the conditions of one of the internal programmatic agreement approvals and more information is required. This is often the case with those actions that are listed on the 'c' or 'd' list but require the completion of a CE Documentation Form. The SEO will continue to work with the Regions regarding the use of the programmatic agreements, and the process by which projects are to be developed under these programmatic agreements.

#### 2011 Finding

The Review Team noted five (5) instances where the REM sent a request to the SEO for concurrence on a CE class of action and SEO staff replied with an email that indicated, 1) the action was a CE, 2) it qualified as a PCE and identified the internal PCE, and 3) it included some or all of the language in the approval finding specified by the MOU. The DOT&PF environmental manual indicates the REM should consult with the SEO on the applicability of a PCE and if applicable, the REM can make the PCE approval. It is confusing to find that a PCE project has been approved by the SEO rather than a REM. The cause of confusion may be ambiguity in the environmental manual. The effect is documentation that is inconsistent with the DOT&PF's procedures. As a corrective action the State should further clarify the applicability determination and approval process for PCE projects through revising their Environmental Manual.

#### 2010 Final Report Finding

None of the Project Information Sheets (PIS) reviewed identified the specific PCE being used. DOT&PF's Internal Agreement (pg 5-57 of the Environmental Manual) requires the REM to certify on the PIS for a project, that the conditions of the applicable PCE are met. This requirement to certify on the PIS that the conditions of the applicable PCE are met is reiterated in the text of the agreement for Approval #1 and Approval #2.

#### 2010 DOT&PF Proposed Corrective Action

The Project Information Sheet (PIS) is not an environmental form. It is a form that is used by numerous divisions within DOT&PF, and this form is not strictly used for FHWA federal-aid funded projects. FHWA has been using this form to track the State's 6004 program activities, which has resulted in errors and confusion. DOT&PF will continue to submit Quarterly Reports on completed CEs as required per the 6004 MOU. The SEO



will continue to work with the PIS form user groups within DOT&PF, and the FHWA to appropriately modify the PIS form.

#### 2011 Finding

The State's environmental manual says that the PIS will include information about a PCE approval including a certification identifying the specific internal agreement by which the project was approved. Based on review of PISs contained in project files, this procedure has not been followed. The cause of the missing information is unfamiliarity with the requirement and that a space is not provided to record this information on the PIS. The effect is inadequate project documentation. According to information provided in interviews, the PIS form has not been revised. SEO staff acknowledged that the use of the PIS form (even if revised) for this purpose is not the answer. As a corrective action, the DOT&PF could collaborate with FHWA to identify a revised or new procedure for documentation of PCE approval, and revise the environmental manual accordingly.

#### **4) MOU Reference II(B)(3)(c) – Providing evidence of CE processing to FHWA**

**Stipulation II(B)(3)(c) requires that, as part of any request for FHWA authorization for funding or other action, the State will provide to the FHWA evidence that the CE processing and any other environmental responsibilities assigned under this agreement have been completed in accordance with this MOU.**

#### 2010 Final Report Finding

Substantial confusion exists regarding the procedure for use of the DOT&PF's Project Information Sheet (PIS).

#### 2010 DOT&PF Proposed Corrective Action

To streamline the process and remove confusion, the statewide design and engineering services office (through a Chief Engineer Directive) will issue guidance on how to process the Project Information Sheet (PIS). This would also be emphasized in additional training provided to the Regions. The PIS form is not an environmental form. It is a form that is used by numerous divisions within DOT&PF, and the PIS is not strictly used for FHWA federal-aid funded projects. FHWA efforts to use this form to track the State's 6004 program activities have resulted in errors and confusion. DOT&PF will continue to submit Quarterly Reports on completed CEs as required per the 6004 MOU. The SEO will continue to work with those that use the PIS within DOT&PF, and the FHWA to appropriately modify the PIS.

#### 2010 Final Report Finding

Numerous PISs reviewed in Division financial files and Region Office files contained inconsistencies, errors and omissions. For each authorization, the DOT&PF should



provide Office evidence that all assigned responsibilities have been completed in accordance with the MOU and FHWA should provide authorization only after receiving that evidence. The cause may be the lack of written procedures, conflicting procedures in the DOT&PF Preconstruction Manual, and unfamiliarity with a new procedure. The effect is inefficiencies and delay in ATP approvals and inappropriate approvals.

#### 2010 DOT&PF Proposed Corrective Action

The PIS form is not an environmental form. It is a form that is used by numerous divisions within DOT&PF, and the PIS form is not strictly used for FHWA federal-aid funded projects. FHWA use of this form to track the State's 6004 program activities has resulted in errors and confusion. Proposed changes to this form, and its use, will need to be coordinated with, at a minimum, the DOT&PF Planning, Project Control, Preliminary Design and Environmental Sections. The SEO will continue to work with the PIS form user groups within DOT&PF, and the FHWA to appropriately modify the PIS form.

#### 2011 Finding

The MOU requires the State to provide to the FHWA evidence that the CE processing and any other environmental responsibilities assigned under the MOU have been completed. At the time the MOU was executed, FHWA and DOT&PF agreed to utilize the PIS for the State to provide evidence that all responsibilities for an assigned CE project were completed. The 2010 Final Report indicated that the use of the PIS for this purpose was confusing at times, and the DOT&PF corrective action plan indicated the State would revise the PIS.

According to information provided in interviews, the PIS form has not been revised and SEO staff acknowledge that the use of the PIS form for this purpose is not the answer. SEO staff described a long term solution involving the development of an electronic documentation and tracking system. The staff member also recognized that DOT&PF would need to develop a short term corrective action until the electronic tracking system becomes available. The State should identify a more reliable way to provide accurate information on the approval status of an assigned project. The reason why the DOT&PF staff has not revised the PIS form or notification process may be because they have not fully developed a solution to best provide evidence to FHWA of their completed assigned projects. The effect is that there may still be some confusion, at the time of a request for authority to proceed, that an assigned project approval is complete. In addition, another effect is that this deficiency means the State is not in compliance with the State's procedures. The DOT&PF must revise the current form and/or procedures to address this recognized deficiency. The DOT&PF should propose a revised notification process and procedure as a corrective action. The Team recommends that the DOT&PF propose a short-term corrective action within 120 days while the development of an electronic system is pursued.



## **5) MOU Reference IV(B)(6) – CE Project File Documentation**

**Stipulation IV(B)(6) requires the State to document in the project file the specific categorically excluded activity, the CE finding, including the determination that there are no unusual circumstances, and the completion of all FHWA responsibilities assigned under Stipulations I and II.**

### 2010 Final Report Finding

66 of 102 files reviewed provided no evidence of consideration of Unusual Circumstances in determining the Class of Action (COA) for a project.

### 2010 DOT&PF Proposed Corrective Action

The SEO will look at adding language to address unusual circumstances to the various forms that are currently in use. The language will be used during the development of 'c' listed projects as well. This issue will be emphasized in training with the environmental staff.

### 2011 Finding

Based on our review, 26 of 46 project files lacked evidence of consideration of unusual circumstances. In one (1) Region Office, eight (8) of 13 project files reviewed, had this deficiency. In another Region Office, 13 of 15 project files review reflected this deficiency. The State should have documented their consideration of unusual circumstances as specified in the MOU. The cause of this issue may be tied to the unrevised forms and a need for clarity in project processing procedures. The effect is that the State's records do not consistently document consideration of unusual circumstances and thus do not reflect compliance with the MOU. We learned from an interview with SEO staff that the DOT&PF realizes this is still a problem. We were told that revised forms have been drafted and would be shared with FHWA this spring. We also learned that if the forms are revised, the environmental procedures would be revised at the same time. We believe that these measures should be implemented as a corrective action.

## **6) MOU Stipulation XI(A) - Alaska Division Office Actions and State Execution of Assigned Responsibilities without FHWA Involvement**

**Stipulation XI(A) states that FHWA Division Office staff shall not provide project-level assistance to the State in carrying out any of the responsibilities assigned under the MOU.**



### 2010 Final Report Finding

There were several instances of FHWA involvement in project-level environmental compliance for assigned projects which is not in accordance with MOU Stipulation XI(A).

### 2010 DOT&PF Proposed Corrective Action

There was some initial confusion within both DOT&PF and FHWA regarding the implementation of the 6004 program. The SEO intends to offer regular statewide teleconferences for the REMs and Statewide NEPA Managers to address process related topics. The SEO will continue to work with all three (3) Regions on developing and implementing training that specifically targets the 6004 process, including the determination of class of action and determination of assignment. FHWA staff will be provided the opportunity to attend these training sessions per the 6004 MOU (Stipulation IV(E)(3)).

### 2011 Finding

Interviews with FHWA Area Engineers revealed that internal FHWA training and discussions on the roles and responsibilities of FHWA and DOT&PF was conducted in September 2010.

Despite this, in February 2011, an Area Engineer in the Alaska Division became involved in the State's 6004 program via an exchange of emails with the DOT&PF. Based on our review of documentation, the DOT&PF had appropriately determined that a proposed project was not assignable under the 6004 MOU. In accordance with the MOU and the State's Environmental Procedures Manual, the REM contacted the FHWA Area Engineer via email to obtain concurrence that the appropriate class of action was a CE. The FHWA Area Engineer responded that the project was an action listed in regulation under 23 CFR 771.117 (d)(1), which indirectly contradicted the State's determination that the project was not assignable. The engineer then initiated a new email providing questionable direction that in effect, served as inappropriate guidance to the DOT&PF relative to how the State should implement their assumption or exclusion of projects under the 6004 program. The Area Engineer should have only responded to the specific question and not interjected himself into issues related to the assignability of the project.

The cause of this action is likely that the FHWA Area Engineer had a genuine desire to assist the State in streamlining its processing of CE projects. However, the engineer did not consider that this involvement likely caused confusion for the REM about which projects are assignable and which are not. Finally, by this action, the engineer unintentionally undermined the authority and role of the Statewide Environmental Manager in his role of implementing the provisions of the 6004 MOU. It is important to note that the Division Environmental Program Manager immediately notified the Area



Engineer and the Field Operations Engineer of the seriousness of this action and provided direction that will likely preclude its recurrence.

The FHWA Division Office must ensure that any actions they take are in accordance with the MOU stipulations for the 6004 program. The assignment of responsibilities for CE determinations to the DOT&PF under the 6004 program is an environmental streamlining provision developed by Congress. FHWA staff has an obligation to respect the provisions of the 6004 MOU as well as the roles and authority of the DOT&PF staff in making determinations according to the MOU. The Division Office staff must carefully consider how they respond to project specific questions, even when the questions involve projects the State has decided are excluded from the 6004 MOU. As a corrective action, FHWA should provide additional training to emphasize the significance of maintaining their appropriate role in the 6004 program.

### Summary of Findings from the 2010 Final Report that Remain Open

There were six (6) findings from the 2010 Final Report that remain open (see Appendix A for details) and need to be resolved through implemented corrective actions by the State. The Team observed additional deficiencies in these areas in most instances. All of these findings relate to a lack of documentation associated with requirements found in Stipulations IV(A) and IV(B) of the MOU and fall into the following categories:

- Evidence of considerations required by 23CFR 771.117 (a) and (b)
- Evidence of the required MOU Finding
- Evidence of the specific activity assumed
- Evidence of the printed name of the approving official
- Evidence of proper consideration in Re-evaluations
- Evidence of compliance with other laws, regulations, and the MOU

The Team believes that in the majority of these findings, if not all of them, the DOT&PF's 2010 Proposed Corrective Actions would have provided resolution had those proposals been implemented. We understand from the interviews with DOT&PF staff that the cause of the delays in implementation are related to staff retirements and the challenge of filling vacancies in the SEO over the last year. While we recognize these constraints, the effect is that many project files lack sufficient documentation of compliance with other laws, the MOU, or the State's procedures. The result is increased risk exposure regarding NEPA compliance to the DOT&PF. Because all these findings are deficiencies in project recordkeeping, we have identified three (3) groups of corrective actions that the State should advance:



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- 1) Revision of existing forms (Class of Action Form and CE Documentation Form)
- 2) Revision of existing procedures (for determining class of action, for PCE approvals, for completing CE forms)
- 3) Ongoing training of staff specifically pertaining to:
  - o 6004 process and procedures
  - o Highway traffic noise
  - o Section 4(f)

Implementing these actions should bring closure to the findings and allow the DOT&PF's assumption of responsibilities to fully realize the streamlining effectiveness and efficiencies of this program while demonstrating compliance with the MOU.



## Successful Practices

In the time since the completion of the first monitoring review, DOT&PF has taken a number of corrective actions that increase the success of the State in their assumption of Federal responsibilities defined in the MOU. These and other actions also have improved the reliability of the project review process, increased the quality of project decisions, and contributed to improving the timeliness of the environmental analyses and CE approval processes. These actions arise from both the focus of the SEO staff and environmental analysts and managers in the Regions. Five (5) items stand out as worthy of special mention.

- 1) Stipulation IV(E)(1) requires the State to carry out regular quality control activities through the SEO to ensure that its CE determinations are made in accordance with applicable laws and the 6004 MOU. Based on interviews and project file reviews we learned that the SEO has conducted detailed and high quality project level quality control reviews, and documented corrective actions in project files.

For example, we observed through our review of a project file, that subsequent to a Region Office's approval of a PCE, the SEO identified a substantive omission during their quality control review of the document. The file provided evidence that the SEO review led to consultation between both offices and an ensuing investigation by the Region Office staff. Ultimately the Region submitted a newly approved PCE and received concurrence from the SEO. It is worthy of note that the Review Team determined that the Region did not submit an ATP to the Alaska Division until after the second document was approved. This instance demonstrates the effectiveness of the SEO's quality control activities and the value of the DOT&PF's approved 6004 procedures.

- 2) Stipulation IV(E)(2) requires that monitoring be conducted by the state and that they take corrective action and document those actions. The SEO is to be commended on the thoroughness reflected in the *Categorical Exclusion Assignment 15 Month CE Delegation Performance Report, January 2011*. The portions related to areas of improvement, summary information, and recommendations to improve CE processing procedures were notable. Based on consideration of the data developed, the State proposed a wide variety of quality control measures that will serve to improve quality/timeliness of the CE review process and project recordkeeping. The summary information on the range of projects processed, as well as the measures of timeliness and quality, provides creditable evidence of the State's stewardship of their assumed responsibilities.



Based on interviews and file reviews, we learned that the SEO staff, despite being understaffed due to retirements and delay in filling vacancies, has conducted program level monitoring review visits to each of the Regions to conduct file reviews. The outcomes of these visits and resulting specific corrective actions have been documented in memoranda that appear in specific project files that our team reviewed. Further, these memos appear to have broadened the understanding of the Region office staffs.

Project file reviews and interviews conducted in the Region and the SEO for the 2011 review revealed that the DOT&PF has now developed non-project administrative records that include the results of state-initiated monitoring visits to Regions and training events. These were listed in the State's 15-month report produced in January 2011.

- 3) In response to specific findings in the 2010 Final Report, the SER has implemented several dramatic changes that reflect a paradigm shift in project file management practices resulting in its being the office with the most improved project files. Based on interviews and project file reviews, we understand that Region staff recognized a need to organize project files according to a standardized structure and adapted the approach utilized by the Northern Region. Then, the Team learned, as a commitment to quickly implement that approach and develop complete and compliant project files, the SER hired a consultant whose responsibility is file management. At the same time, we were told, because of experience in staff turnover and a need for additional mentoring and oversight of staff developing project files, the SER instituted a new central file structure that allows for broad file access while preserving project file information. Finally, we suspect that as a way to insure that project file information is secure and managed in one location, the SER made one of their staff responsible as a "gatekeeper" for the centralized files, to ensure their security and to track those who access the files.
- 4) The State is to be commended in taking corrective action to address a finding identified in the first monitoring report. Our Final Report from July 2010 included a finding related to errors and omissions or where evidence of compliance with an applicable environmental law was lacking in CEs approved by FHWA prior to the MOU. DOT&PF had failed to remedy these inadequacies during Re-evaluations under the Assignment. During this review, a project file from one of the projects that prompted the finding was reexamined. A Re-evaluation completed subsequent to the 2010 Final Report provided documentation that DOT&PF had conducted appropriate studies to rectify the previous shortcomings and to fulfill their responsibilities under the terms of the MOU.



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- 5) Our Final Report from 2010 indicated that the State's Quarterly Reports contained inaccuracies, errors, and omissions. Based on information gained through interviews, we learned that the SEO developed a new approach in November 2010 to track and verify assigned projects. This approach relies upon a new spreadsheet that tracks project status from the class of action decision through CE approval. We learned that the SEO uses this spreadsheet to verify with the Regions which projects should be included on the Quarterly Report. We also understand that this spreadsheet is regularly shared with the Regions and that the Regions have adapted this spreadsheet for their own project status tracking use. We commend the SEO's efforts to address the challenges in compiling accurate and complete reports.



## Conclusion

This report summarizes the results of the second compliance review of the State’s assumption of environmental responsibilities under the 6004 MOU. It has evaluated how the issues or problems identified as findings and observations in the 2010 Final Report have been resolved or addressed and has made several new findings and observations. Based on review of project files, information gained from interviews at the Statewide and Region offices of DOT&PF, and facts presented in the State’s 15 month report, the Review Team can conclude that the State is substantially in compliance with the provisions of the Section 6004 MOU. The Review Team has made a number of new findings and observations that should be utilized by the State to improve the efficiency and effectiveness of procedures, documentation, and decision making related to this assignment of CE responsibilities. Also, as a result of the consideration of information gained from this monitoring review, the Review recommends that 24 findings previously described in the 2010 Final Report be considered closed (please refer to Appendix B for details).

The overall purpose of the monitoring review was to verify DOT&PF’s compliance with the provisions of the Section 6004 MOU, to evaluate the State’s performance in carrying out the procedures established for the CE Assignment, and to evaluate the effectiveness of those procedures in achieving compliance. This conclusion summarizes, in Table 1, the seven (7) (A through G) objectives for this compliance review.

Table 1. 2010 Final Report Objectives (A through G) with 2011 Review Status and Findings (f)/Observations (o)

Objective	2011 Review Status	2011 Finding (f)/ Observation (o)
A-Verify CE determinations and documentation are appropriate.	Nearly all CE determinations are appropriate.	(f) Six (6) of 46 files did not provide sufficient evidence that the projects are in compliance with all federal laws and regulations
B-Review State’s process for identification and documentation of CE determinations, including ‘c’ listed actions.	DOT&PF has conducted training with Regions in identification of class of action and documentation. Project files reflect marked improvement noting reasonable compliance.	(f) Of the 46 project files reviewed, ten (10) lacked evidence of the printed name of the approving official; all ten (10) of the projects were approved as PCEs. The review of 28 PCE project files revealed that only four (4) of them



		did not identify the specific internal PCE that applies.
C- Review of adequacy of State's provision of staff and financial resources, and training. Verify staff qualifications and expertise	Based on information gained from Region interviews, staff regularly indicated they were overworked, but not necessarily understaffed. The general assessment from interviews from what we were told is that current staffing levels have made it a challenge to maintain the program, but they have sufficient staff to implement the assignment, though not at a level that fully realizes its streamlining potential. The Team is satisfied that the documentation and staff issues previously cited for the SER in the 2010 Final Report have been adequately addressed and that the DOT&PF is sufficiently staffed and trained; and have dedicated sufficient financial resources to carry out the responsibilities assigned under the MOU.	(o) Based on information gained from interviews, the issue of "coverage" of the air quality technical discipline has been addressed. The State should have at least one (1) commonly known source for consistency purposes, for air quality conformity information.
D- Review the scope, methodology, and results of DOT&PF's self assessment of the CE assignment.	DOT&PF has adequately completed their 15 month report. This report describes a laudable program of quality control and quality assurance.	(o) Since the 2010 Final Report DOT&PF has developed a self assessment program that entails quality control and quality assurance. Based on information provided in interviews, the SEO is actively engaged in quality control actions and performs regular quality assessment reviews of



		projects in Regions.
E-Review the State's activities for tracking of time and cost savings attributable to the CE assignment program.	The state still has not yet developed and implemented time and cost measures for CE projects, nor does a baseline for typical CE costs/time exist.	(o) Based on information provided in SEO interviews, DOT&PF is developing a document tracking system that should provide consistent information for CE costs/time.
F- Review effectiveness of lines of communication between SEO and Region offices in dissemination of new policies/guidance.	Based on information gained from interviews, DOT&PF's lines of communication with the Region offices are effective in disseminating new policies.	(o) Based on interviews with DOT&PF SEO staff, the Review Team is only aware of one (1) instance since the 2010 Final Report where the DOT&PF issued guidance related to their assumed responsibilities under the MOU. In this instance the DOT&PF provided FHWA an opportunity for review and comment prior to the effective date of the guidance.
G- Verify the accuracy of the Quarterly Reports submitted to the FHWA.	Quarterly Reports for the third, fourth, fifth, and sixth quarters have been submitted since the 2010 Review was conducted. All of these Quarterly Reports have been submitted prior to the due date, but still contained inaccuracies or omissions. The overall number of errors and omissions are few, providing evidence of reasonable compliance.	Information gathered during interviews for the 2011 Review reveal that the State has recently implemented corrective actions aimed at improving the Quarterly Reports by devising a spreadsheet to track CE approvals and verify those approvals with the Region Offices. The Review Team believes these efforts should improve the quality of the Quarterly Reports and correct the errors and omissions that have existed in Quarterly Reports submitted to date.



## Appendices

### **Appendix A: Six (6) Observations and Findings from 2010 Final Report that remain open.**

#### **1) MOU Reference IV(A); IV(B)(1); and Environmental Manual Sections 5.1 & 5.2**

**Stipulation IV(A) makes the State responsible for compliance with governing laws, regulations and the MOU and requires the State to make all determinations under the 6004 MOU in accordance with 23 CFR 771.117(a) and (b) and succeeding regulations. Stipulation IV(B)(1) requires the State to institute a process to identify and review the environmental effects of the proposed project.**

#### 2010 Final Report Finding

Twenty-four (24) of 102 Files reviewed provided no evidence of identifying and reviewing environmental effects of the proposed project. Twenty-two (22) of the 24 were for projects processed as 'c' list CEs.

#### 2010 DOT&PF Proposed Corrective Action

The SEO will review and provide additional guidance on the way 'c' list projects are processed so that the environmental impacts are identified and analyzed before the projects receive environmental approval. The SEO office will also review and modify the class of action form to address this issue.

There were several observations that also pertained to 'c' list projects and how they are reviewed and processed. By the SEO reviewing the process and modifying the class of action form these observations would also be addressed.

#### 2011 Finding

Based on information gained from interviews, the SEO said they were in the process of modifying the class of action form to address analysis of environmental effects associated with 'c' listed projects. The Review Team was told that the SEO would modify the forms in coordination with FHWA and submit proposed revisions to the environmental manual. The State must document consideration of environmental impacts for each action assumed under the MOU. The cause is likely the SEO resource constraints over the last year. The effect is lack of documentation and evidence that the State is in compliance with the MOU. As a corrective action, the DOT&PF could include a check box on their class of action form where a 'c' list action is determined applicable, to record the decision that, by the nature of the proposed action, no environmental



impacts would occur. In this way, the State could demonstrate how it has identified and analyzed environmental impacts prior to approval.

## **2) MOU Reference IV(B)(6) – CE Project File Documentation**

**Stipulation IV(B)(6) requires the State to document in the project file the specific categorically excluded activity, the CE finding, including the determination that there are no unusual circumstances, and the completion of all FHWA responsibilities assigned under Stipulations I and II.**

### 2010 Final Report Finding

Twenty-three (23) of 102 files did not identify the specific categorically excluded activity. Seventeen (17) of those 23 files were for projects assumed with Re-evaluations of prior approvals. The MOU requires the State to identify the specific categorically excluded activity for each project assumed under the MOU. The cause may be the sometimes informal process used in documenting consultations that serve as Re-evaluations. The cause may be a lack of understanding that Re-evaluations require identification of the specific activity category; it should be noted that some previous versions of the Categorical Exclusion Documentation Form did not identify the specific activity. The effect is inadequate documentation to demonstrate due consideration of the applicability of a project for assignment and to demonstrate compliance with the terms of the MOU.

### 2010 DOT&PF Proposed Corrective Action

The SEO will review procedures and forms to determine if they need to be modified to capture the specific CE activity. Re-evaluations make up the bulk of the projects with deficiencies and the Re-evaluation process has been addressed. The Re-evaluation form will be updated to capture the necessary changes. The SEO will continue to work with all three (3) Regions to develop and implement training that specifically targets 6004 process, including processing Re-evaluations. FHWA staff will be provided the opportunity to attend these training sessions per the 6004 MOU Stipulation IV(E)(3).

### 2011 Finding

Eleven (11) of 46 project files, either lacked identification of the specific activity or the activity was misclassified. Of those 11 files, five (5) project files were for Re-evaluations of projects approved prior to the MOU, that have subsequently been assumed. We also observed that most of the SEO files from a single Region's projects (seven (7) of the ten (10)) had evidence of this deficiency. The State should have identified the specific activity category, as required in the MOU. The cause of the deficiency may have been partly addressed by the State's corrective action by training. The effect is inadequate documentation. As a corrective action the State should revise its procedures for Re-evaluation consultations and implement focused training to address this deficiency.



### **3) MOU Stipulation IV(B)(4)**

**Stipulation IV(B)(4) requires the State to document its approval of determinations, including at a minimum, the printed name, title, and date of the State official approving the determination.**

#### 2010 Final Report Finding

Many project files lacked evidence of the printed name of the State official approving the determination. These were mainly 'c' list CE approvals, Consultations that served as Re-evaluations, and PCEs. Project documentation should include the printed name of the approving official in each approval taken under the assignment. The cause is likely that the State's procedures and forms were not developed and revised to address this requirement. The effect is that required documentation is unavailable.

#### 2010 DOT&PF Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of 'c' list activities.

The SEO will continue to work with the Regions on the development of guidance for how to process 'c' listed projects and what is required for these projects. This will also be emphasized in training provided to all the Regions. The SEO will add a place for the printed names on our various forms.

#### 2011 Finding

Of the 46 project files reviewed, ten (10) lacked evidence of the printed name of the approving official; all ten (10) of the projects were approved as PCEs. The Team learned from interviews that no forms had been revised to address this shortcoming. One SEO interview indicated that revised forms and procedures have been developed and they will be submitted to FHWA soon. Project documentation should include the printed name of the approving official in each approval taken under the assignment. The cause is likely that the State's procedures and forms were not developed and revised to address this requirement. The effect is that required documentation is unavailable. As a corrective action, the DOT&PF should revise the forms and procedures related to this finding.

### **4) MOU Reference IV(B)(5); DOT&PF Environmental Manual Chapter 8 – CE Determinations and Re-evaluations**

**Stipulation IV(B)(5) requires the State to document in each approval of its determinations the following finding: "The State has determined that this project**



**has no significant impacts on the environment and that the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to Chapter 3 of title 23, United States Code, Section 326 and a Memorandum of Understanding dated September 22, 2009, executed between FHWA and the State". Chapter 8 of the DOT&PF Environmental Manual requires that Re-evaluations address whether the original environmental document and decision is still valid.**

#### 2010 Final Report Finding

Several files were identified where FHWA approved an original CE determination that contained errors or omissions or where compliance with an applicable environmental law was lacking (i.e., inappropriate Section 106 No Potential to Effect Determinations) that were not remedied by the State during a Re-evaluation under the Assignment.

#### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of Re-evaluations as the process was different than it was under FHWA prior to the signing of the 6004 MOU.

The SEO will provide Re-evaluation process and 6004 process training to all three (3) Regions. The SEO will work with the Regions to develop a core course that will be added to a training program for the environmental staff.

#### 2011 Review Finding

Two (2) of the project files cited in the 2010 Finding were reexamined, since approval actions had taken place on those projects since the 2010 Review. Both projects were in the same Region and both had been Re-evaluated since the 2010 Final Report. One of the Re-evaluations corrected the deficiency cited; however, the second Re-evaluation failed to resolve the errors noted in the 2010 Review. The State should resolve the known errors or omissions when preparing Re-evaluations of earlier documents and decisions. The cause is unclear, since one (1) project file provided evidence of laudable efforts to correct mistakes, but the other project file did not. The cause may have been a pending deadline to proceed to the next phase. The effect is inadequate documentation of compliance with all Federal laws, regulations, and the MOU. The corrective action could involve additional training on Re-evaluations and reinforcement of this principle during the training.



## 5) MOU Stipulation IV(A)

**Stipulation IV(A) of the MOU requires the State to document compliance with all governing laws, regulations, and the MOU in its approval of determinations.**

### 2010 Final Report Finding

Twenty-two (22) of 102 files did not provide sufficient evidence that the projects are in compliance with all federal laws and regulations. Five (5) files (3 projects) did not contain sufficient evidence to verify compliance with Section 4(f). DOT&PF relied on questionable or inappropriate determinations made by FHWA that a project had no potential to effect historic properties in 16 of the 22 instances. In two (2) of the 22 cases, it appeared that DOT&PF made questionable or inappropriate determinations that a project had no potential to effect historic properties. Project files should contain evidence that projects comply with all federal laws and regulations. The causes for the reliance on questionable or incorrect determinations made by FHWA may be attributable to a belief that the decision had been made and does not need to be revisited. The causes for lacking sufficient evidence for the Section 4(f) compliance and inappropriate determinations under Section 106 may be due to lack of a precise understanding of the requirements and how to apply them in a given situation. The effects of these instances are an increased risk that a compliance requirement will be missed during NEPA. This may result in damage to protected resources, loss of public trust and credibility with other agencies.

### 2010 DOT&PF Proposed Corrective Action

The program review did not identify specific concerns, particularly in the project spreadsheet for “106 finding appropriate”. This lack of specifics made it difficult to propose corrective actions directed at the specific concerns, rather than to the overall Section 106 process. One (1) issue that may have occurred involved documentation of historic property boundaries. This is being addressed during reviews of cultural resource reports and Section 106 initiation and finding letters.

The SEO will work with the Regions to develop a list of core courses to be added to a training program for the environmental staff. Section 4(f) training needs to be offered routinely to the Regions, the SEO has identified Section 4(f) as a core course in our initial development of a training plan for DOT&PF environmental staff.

### 2011 Finding

Six (6) of 46 files did not provide sufficient evidence that the projects are in compliance with all federal laws and regulations. One (1) of the six (6) project files did not contain an approved environmental document; two (2) of the six (6) project files did not contain sufficient evidence to verify compliance with Section 4(f). In three (3) of the six (6) instances the project files failed to provide clear evidence of compliance with Section 106. Project files should contain evidence that projects comply with all federal laws and



regulations. The causes for lacking sufficient evidence for the Section 4(f) compliance and Section 106 compliance may be due to lack of a precise understanding of the requirements and how to apply them in a given situation. The effects of these instances are an increased risk that a compliance requirement will be missed during the NEPA project development process. This may result in damage to protected resources, loss of public trust and credibility with other agencies. The corrective action could entail instituting a comprehensive training program that provides for continuing availability of courses in Section 106 and Section 4(f).

## **6) MOU Stipulation IV(E)(2); IV(F)(1,2,3) – MOU Performance Monitoring and Quality Assurance**

**Stipulation IV(E)(2) requires the State to monitor its process for making CE determinations as part of quality control. Stipulation IV(F)(1,2,3) describes aspects of required performance monitoring and quality assurance.**

### 2010 Final Report Finding

Several different approaches exist among Region and Statewide Offices to maintain project and administrative records pertaining to MOU responsibilities. Reviews of paper and electronic project files in both Regions and Statewide Offices revealed that for an individual project, sometimes the complete record was found in the Region, at other times at the SEO. Occasionally a complete record could be compiled from records found in both the Region and Statewide Offices. Additionally, there appeared to be little attempt to compile non-project administrative records, such as records of training events, agendas, and actions taken to improve or resolve 6004 program implementation and little attempt to compile those data for later incorporation in a summary report.

### 2010 DOT&PF Proposed Corrective Action

The SEO has advocated for, and continues to strive toward, a consistent project file system. The SEO provided a generic file structure to the Regions shortly after the 6004 MOU was signed, and offered the Regions assistance in uniformly structuring existing files. The SEO will continue to work with the Regions on developing documented guidance for project file structure that would provide environmental staff with a method for determining what information should be retained within the project file. The SEO is working with the Regions on developing a project file checklist for incorporation into each project file to promote complete project file documentation. The SEO has initiated a project file review procedure that promotes consistent project file management. This file review procedure will be incorporated into our 6004 Monitoring Plan that will be developed prior to submittal of the 15-month monitoring report. The SEO will continue to work with the Regions in developing project file structure training.



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### 2011 Finding

Four (4) project files from two Regions were incomplete. They either lacked an environmental document, lacked a signature for appropriate approval, and/or a lacked of evidence of notice to FHWA of project being excluded. The missing information in Region Office project files was found in project files at the SEO.

The cause of these inconsistencies in project and program records may result from the State's implementation of procedures that are still relatively new and a lack of a standardized checklist to ensure a completed project file contains all necessary records. The effect of inconsistent project recordkeeping and the absence of an overall procedure for retaining records of program implementation have resulted in actions that may not be compliant with the provisions of the MOU. The corrective action is that the State should modify its quality control processes to ensure project files are complete.



## **Appendix B: Twenty-four (24) Findings from 2010 Final Report that have been closed.**

### **1) MOU Stipulation I(A,B); III(D); and IV(A,B) – Questionable Assignment of Projects**

**Stipulation I(A,B) in the MOU defines the scope of activities the State may determine as a designated activity for which the State may assume the FHWA's NEPA responsibilities and liabilities. The MOU defines those activities listed in regulation in 23 CFR 771.117(c) and the example activities listed in 23 CFR 771.117(d). Stipulation III(D) identifies conditions that would exclude a project from being assignable and Stipulation IV(A) makes the State responsible for compliance with governing laws, regulations and the MOU and requires the State to make all determinations under the 6004 MOU in accordance with 23 CFR 771.117(a) and (b) and succeeding regulations. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations.**

#### 2010 Final Report Finding

Five (5) project files were reviewed that contained references to a scope of work or possible joint funding that would render the project not assignable, but contained no documentation addressing the questions regarding applicability of assignment.

#### 2010 DOT&PF Proposed Corrective Action

The SEO resolved three (3) of five (5) projects with FHWA and was working with the Region offices of DOT&PF to complete the review of the two (2) remaining projects in question.

#### 2011 Review Status

The DOT&PF has adequately resolved all five (5) of the projects in the 2010 Final Report Finding with FHWA. We consider the 2010 Final Report Finding closed at this time.

### **2) MOU Stipulation I(A,B); III(D); and IV(A,B) – Questionable Assignment of Projects**

**Stipulation I(A,B) in the MOU defines the scope of activities the State may determine as a designated activity for which the State may assume the FHWA's NEPA responsibilities and liabilities. The MOU defines those activities listed in regulation in 23 CFR 771.117(c) and the example activities listed in 23 CFR**



**771.117(d). Stipulation III(D) identifies conditions that would exclude a project from being assignable and Stipulation IV(A) makes the State responsible for compliance with governing laws, regulations and the MOU and requires the State to make all determinations under the 6004 MOU in accordance with 23 CFR 771.117(a) and (b) and succeeding regulations. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations.**

#### 2010 Final Report Finding

The 2010 Review Team identified a project that had previously been determined by the FHWA to require an Environmental Impact Statement. FHWA advised that the project should not be classified as a CE. The State DOT formally determined the Class of Action as a CE and assumed responsibility for the project. The FHWA subsequently excluded the project from assignment, pursuant to Stipulations III(B), IV(A), and X(B), citing deep concerns regarding the determination of assignability and the State's stewardship of its responsibilities under the MOU.

#### 2010 DOT&PF Proposed Corrective Action

The finding where the State made a CE class of action determination for the project cited in the 2010 Final Report was due to a reduction in the proposed project scope and after discussions with various resource agencies. The project then appeared to fall under a Categorical Exclusion. FHWA had made a determination that the project would be a Class III action based on a different scope and potential impacts to environmental resources, and subsequently formally excluded this project from assignment to the State.

#### 2011 Review Status

All questions and issues regarding this project have been adequately resolved by the FHWA and DOT&PF. We consider the 2010 Final Report Finding closed at this time.

### **3) MOU Stipulation XI(A) - Alaska Division Office Actions and State Execution of Assigned Responsibilities without FHWA Involvement**

**Stipulation XI(A) states that FHWA Division Office staff shall not provide project-level assistance to the State in carrying out any of the responsibilities assigned under the MOU.**

#### 2010 Final Report Finding

There were several instances where requests for ATP were approved by the Alaska Division staff with missing forms (no PIS, no written Re-evaluation), missing signatures or dates, and/or insufficient or erroneous information.



#### 2010 DOT&PF Proposed Corrective Action

There was some initial confusion regarding the implementation of the 6004 program. The SEO intends to offer regular statewide teleconferences for the REMs and Statewide NEPA Managers to address process related topics. The SEO will continue to work with all three Regions on developing, and implementing, training that specifically targets the 6004 process, including the determination of class of action and determination of assignment. FHWA staff will be provided the opportunity to attend these training sessions per the 6004 MOU (Stipulation IV(E)(3)).

#### 2011 Review Status

The 2011 review did not include an inspection of records in the Alaska Division Office. However, based on interviews with the FHWA, DOT&PF Region, and SEO staff, as well as DOT&PF project file reviews, the Review Team did not learn of any incidences, since the 2010 Final Report, of FHWA approving requests for ATP based on forms with missing information. The interview with SEO staff indicated that DOT&PF has conducted training that specifically targets the 6004 process. We consider the 2010 Final Report Finding closed at this time.

#### **4) MOU Stipulations II(C); IV(B, C, D) – Southeast Region**

**Stipulation II(C) requires that the State's execution of environmental review, Re-evaluation, consultation, and other responsibilities for CE projects assigned under this MOU are subject to the same existing and future procedural and substantive requirements as if those responsibilities were carried out by the FHWA. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations. Stipulation IV (C) establishes requirements for processing projects excluded from processing under the assignment. Stipulation IV(D) establishes requirements for State resources, qualifications, expertise, standards, and training to effectively carry out the responsibilities assigned to it under this MOU.**

#### 2010 Final Report Finding

The review found that 82% (nine (9) of eleven (11)) of the project files in the Southeast Region (SER) were inadequate per the requirements of the MOU. SER project files contained unsigned or improperly signed documents or missing documentation critical to decision making and verification of compliance with the MOU and NEPA. It was also stated during an interview with SER staff that substantial portions of a project file for an assigned project were permanently discarded after the scope for the project was reduced. These deficiencies ultimately made it impossible to fully review the project files in the SER for compliance with terms of the MOU. In several instances, copies of



documents that were not found in SER project files were found in the SEO project files of the NEPA Manager.

#### 2010 DOT&PF Proposed Corrective Action

The SER has added staff to address deficiencies within the project files. The staff is working closely with the REM to ensure that project files are centrally located and information is being placed within the project files. SER has also coordinated with both the SEO and the other Regions to gain assistance on project file structure, contents in the project file, and assistance with developing a project file checklist. The SEO has been working with SER staff to develop a project file structure, and get this in place to help correct deficiencies within the project files. SEO staff recently reviewed four (4) project files for consistency with the procedures manual and 6004 MOU. The SEO will continue to work with all three (3) of the Regions on their project file management. The SEO has initiated a project file review procedure that will be incorporated into our 6004 Monitoring Plan. The DOT&PF 6004 Monitoring Plan will be developed prior to submittal of the 15-month monitoring report. The SEO will continue to work with the Regions to develop project file structure training.

#### 2011 Review Status

The Review Team found that only 13% (two (2) of 15) project files reviewed in SER lacked adequate documentation; and contrary to what was observed in the 2010 review, even those two (2) files were almost complete. Based on information gained through interviews with SER and SEO staff, the Review Team confirmed that the SER has added staff to address deficiencies within the project files. A consultant was hired whose responsibility is file management. Also, the SER made one (1) of their staff responsible as a “gatekeeper” for the project files to track who is accessing the project files and to ensure their security. The SEO interview further confirmed that SEO staff have coordinated extensively with staff in the SER to mentor, advise in project file quality control, and assist the Region in developing a project file structure. The project file deficiencies observed during the 2010 Review have been addressed in SER; the current state of the files allowed full reviews for compliance with the terms of MOU. We consider the 2010 Final Report Finding closed at this time.

### **5) MOU Stipulations II(C); IV(B, C, D) – Southeast Region**

**Stipulation II(C) requires that the State’s execution of environmental review, Re-evaluation, consultation, and other responsibilities for CE projects assigned under this MOU are subject to the same existing and future procedural and substantive requirements as if those responsibilities were carried out by the FHWA. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations. Stipulation IV (C) establishes requirements for processing projects excluded from processing**



**under the assignment. Stipulation IV(D) establishes requirements for State resources, qualifications, expertise, standards, and training to effectively carry out the responsibilities assigned to it under this MOU.**

#### 2010 Final Report Finding

There was confusion among DOT&PF staff regarding the responsibilities assumed by the State. Specifically, DOT&PF staff asked during one (1) interview if there was a requirement to follow FHWA policy for assigned projects. The basis for the question was a disbelief that full completion of the process to comply with Section 106 of the National Historic Preservation Act was necessary to issue a CE determination. File documentation also indicated four (4) instances where the SER staff requested concurrence to proceed with a project citing the applicability of a 2009 MOU between the DOT&PF and SHPO that only applied to State-funded projects, and therefore was not applicable to the subject assigned federal projects.

#### 2010 DOT&PF Proposed Corrective Action for Finding

There was some initial confusion regarding the implementation of the 6004 program. The SEO intends to offer regular statewide teleconferences for the REMs and Statewide NEPA Managers to address process related topics. The SEO will continue to work with all three (3) Regions to develop and implement training that specifically targets the 6004 process, including compliance with Section 106 of the National Historic Preservation Act. FHWA staff will be provided the opportunity to attend these training sessions per the 6004 MOU (Stipulation IV(E)(3)).

#### 2011 Review Status

There was no evidence of confusion among the staff in SER concerning the State's responsibilities under the 6004 Assignment. Based on information gathered during interviews, the SEO has conducted teleconferences with their environmental staff in the Regions, and specifically conducted staff mentoring in the SER. We learned through interviews that SER has actively pursued training in environmental responsibilities and specifically requested and received training in the 6004 process as a supplement to an FHWA NEPA training class. We consider the 2010 Final Report Finding closed at this time.

### **6) MOU Stipulations II(C); IV(B, C, D) – Southeast Region**

**Stipulation II(C) requires that the State's execution of environmental review, Re-evaluation, consultation, and other responsibilities for CE projects assigned under this MOU are subject to the same existing and future procedural and substantive requirements as if those responsibilities were carried out by the FHWA. Stipulation IV(B) establishes requirements for the identification, documentation and review of effects for CE determinations. Stipulation IV (C)**



**establishes requirements for processing projects excluded from processing under the assignment. Stipulation IV(D) establishes requirements for State resources, qualifications, expertise, standards, and training to effectively carry out the responsibilities assigned to it under this MOU.**

#### 2010 Final Report Finding

The documentation and staff issues cited for the SER indicate a lack of adequate staff, organizational capability, and expertise to effectively carry out the responsibilities assigned under the MOU. The observed differences between the SER and other DOT&PF Regions make it difficult for the DOT&PF to consistently demonstrate compliance with the terms of the MOU from a statewide perspective.

#### 2010 DOT&PF Proposed Corrective Action

In March (2010), during FHWA's review of the State's 6004 program, there was only one (1) of the seven (7) environmental staff within SER that did not have NEPA training. There was a NHI NEPA course taught in Anchorage in January 2010 and two (2) environmental staff members and the Preliminary Design and Environmental Group Chief from SER attended this course. A second NHI NEPA course will be offered in Juneau this coming month (October 2010) and the intent is to have all engineering design and environmental staffs within SER that are available attend this course. The SEO will continue to work with all three (3) Regions to provide mentoring and more frequent on-site project file and 6004 process reviews. The SEO and Northern Region have developed a method of mentoring and project involvement that will be used as a template for all three (3) Regions. The Statewide NEPA Manager makes frequent (approximately every other month) visits to the Region and meets with the REM, Project Managers, and environmental analysts to discuss projects and 6004 processes. The additional on-site meetings have greatly assisted both the Statewide NEPA Manager as well as the staff within Northern Region. The SEO intends to offer regular statewide teleconferences for the REMs and Statewide NEPA Managers to address process related topics. The SEO will continue to work with all three (3) Regions to develop, and implement, training that specifically targets the 6004 process. FHWA staff will be provided the opportunity to attend these training sessions per the 6004 MOU Stipulation IV(E)(3).

#### 2011 Review Status

Based on information gained from interviews, the Review Team confirmed that the NHI classes were conducted. We also learned that when this NEPA class was presented for the SER, the course was modified to include a lengthy session on the 6004 program, which was presented by SEO staff. Additionally, the SEO staff mentored the SER staff and conducted project file reviews in all three (3) Region offices. Teleconferences among the Regions and the SEO also occurred. SEO staff informed us that they are currently developing training that specifically targets the 6004 process. Interviews in the SER revealed that several key staff changes have occurred since the 2010 Final



Report. Based on interview answers, new staff has a firm grasp of their responsibilities under the MOU. We heard that there is currently one (1) vacancy to fill for environmental staff. We also learned that this Region will be adding two (2) new environmental staff by reclassifying two (2) existing positions. The interview with the SER Design and Environment Group Chief indicated they received NEPA training at the end of October that included a sub-training session on Section 106 and on the 6004 process. We learned that the class was composed of the entire design staff. SER management felt there was a benefit to everyone hearing the same message.

Training in 6004 procedures also occurred in the SER. The Review Team was told by a SER supervisor that the staff know that there is a difference in how 6004 projects are handled versus other projects in terms of roles and responsibilities; and that generally, people are getting a better idea of the whole 6004 process. The Team is satisfied that the documentation and staff issues previously cited for the SER in the 2010 Final Report have been adequately addressed and that the SER is sufficiently staffed and trained to carry out the responsibilities assigned under the MOU. We consider the 2010 Final Report Finding closed at this time.

#### **7) MOU Reference II(B)(3)(c) – Providing evidence of CE processing to FHWA**

**Stipulation II(B)(3)(c) requires that, as part of any request for FHWA authorization for funding or other action, the State will provide to the FHWA evidence that the CE processing and any other environmental responsibilities assigned under this agreement have been completed in accordance with this MOU.**

##### 2010 Final Report Finding

Region and Division Staff indicated uncertainty regarding the process to determine whether a project is assigned or not. There are multiple instances where the FHWA Division was not provided with sufficient information that the CE processing was completed at time of request for ATP.

##### 2010 DOT&PF Proposed Corrective Action

The SEO will continue to work with all three (3) Regions regarding procedure and 6004 CE process training. The SEO will be working with the three (3) Regions and Research staff to look at training needs for environmental staff with the intent of developing a training program for the environmental staff.

##### 2011 Review Status

Based on information gained in interviews, DOT&PF conducted some 6004 CE process training, but is still in the process of developing a training program. The 2011 review did not include inspection of records in the Division Office. However, through interviews with FHWA Area Engineers, the Team learned that FHWA staff received training on the



roles and responsibilities of FHWA and DOT&PF under the 6004 program. The Review Team identified no instances where DOT&PF or Division staff expressed uncertainty regarding the process for determining whether a project was assigned or not. We consider the 2010 Final Report Finding closed at this time.

#### **8) MOU Reference II(B)(3)(c) – Providing evidence of CE processing to FHWA**

**Stipulation II(B)(3)(c) requires that, as part of any request for FHWA authorization for funding or other action, the State will provide to the FHWA evidence that the CE processing and any other environmental responsibilities assigned under this agreement have been completed in accordance with this MOU.**

##### 2010 Final Report Finding

DOT&PF Regions contacted Division staff regarding whether project is assigned when they were requesting ATP. DOT&PF staff is responsible for determining whether or not a project is assigned and reporting that the CE process is complete at the time of a request for ATP. The State staff should not ask and the Division staff should not answer project specific questions. The cause may be Region staff unfamiliarity with the new 6004 procedures and inconsistent project recordkeeping. The effect is inefficiencies and delay in the process to request ATP approvals.

##### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of the 6004 program. The SEO will continue to work with all three (3) Regions regarding procedure and 6004 CE process training. The SEO will work with the three (3) Regions and Research staff to examine the training needs for the environmental staff with the intent of developing a training program for the environmental staff.

##### 2011 Review Status

Based on information gained in interviews, DOT&PF did conduct some 6004 CE process training, but the SEO is in the process of developing a training program. Based upon interviews with the DOT&PF and the Division Office, the Review Team identified no instances where Division staff were asked by DOT&PF staff, whether a project was assigned or not. Further, the Team learned from interviews that if a Division staff received an call on a project, the first question asked to the State's staff, was, "is the project assigned or not?" If there was a question, Division staff directed the DOT&PF staff to contact the SEO. We consider the 2010 Final Report Finding closed at this time.



**9) MOU Reference IV(A)(6) – FHWA opportunity to review and comment on proposed new or revised laws, regulations, policies, or guidance.**

**Stipulation IV(A)(6) establishes that the State will use its best efforts to ensure that any proposed new or revised State laws, regulations, policies, or guidance that are applicable to the State’s performance under this MOU are communicated to the FHWA for review and comment before they become final.**

2010 Final Report Finding

DOT&PF developed a supplemented list of actions that would have "no potential to affect" historic properties dated March 12, 2010.

2010 DOT&PF Corrective Action

Pursuant to Stipulation IV(A)(6) of the 6004 MOU, the FHWA is to be provided an opportunity to review and comment on policies and guidance that are applicable to the State’s performance of the 6004 MOU. The SEO will ensure that all future policies and guidance will only be issued after FHWA has been notified and provided the opportunity to review and comment.

2011 Review Status

Based on interviews with DOT&PF SEO staff, the Review Team is only aware of one (1) instance since the 2010 Final Report where the DOT&PF issued guidance related to their assumed responsibilities under the MOU. In this instance the DOT&PF provided FHWA an opportunity for review and comment prior to the effective date of the guidance. We consider the 2010 Final Report Finding closed at this time.

**10) MOU Reference IV(A)(6) – FHWA opportunity to review and comment on proposed new or revised laws, regulations, policies, or guidance.**

**Stipulation IV(A)(6) establishes that the State will use its best efforts to ensure that any proposed new or revised State laws, regulations, policies, or guidance that are applicable to the State’s performance under this MOU are communicated to the FHWA for review and comment before they become final.**

2010 Final Report Finding

DOT&PF did not share the guidance with FHWA in advance of implementation as required by the MOU, along with the following pieces of new guidance: October 20, 2009 Guidance on 106 correspondence processing; October, 2009 Categorical Exclusion (CE) Class of Action Consultation Form; Bill Ballard's October 13, 2009, "programmatic adoption" of FHWA COAs prior to September 22, 2009; Bill Ballard's April 22, 2010 guidance email on "adopting FHWA documents". The MOU states that in order to minimize possible conflicts that could lead to MOU termination, the DOT&PF



should have provided any new draft guidance to FHWA for review and comment prior to implementation. The cause may be unfamiliarity with the terms of the MOU. The effect is FHWA is unaware of proposed changes in guidance and has no opportunity to provide input on the guidance. In the case of the file programmatic adoption of FHWA COA determinations prior to September, 22, 2009, FHWA would have pointed out that DOT&PF is liable for all of those determinations and would be required to complete Re-evaluations to verify the COA and assignability prior to taking major steps to advance the action.

#### 2010 DOT&PF Proposed Corrective Action

Pursuant to Stipulation IV(A)(6) of the 6004 MOU, the FHWA is to be provided an opportunity to review and comment on policies and guidance that are applicable to the State's performance of the 6004 MOU. The SEO will ensure that all future policies and guidance will only be issued after FHWA has been notified and provided the opportunity to review and comment.

#### 2011 Review Status

Based on interviews with DOT&PF SEO staff, the Review Team is only aware of one (1) instance since the 2010 Final Report where the DOT&PF issued guidance related to their assumed responsibilities under the MOU. In this instance the DOT&PF provided FHWA an opportunity for review and comment prior to the effective date of the guidance. We consider the 2010 Final Report Finding closed at this time.

### **11) MOU Reference IV(B)(1)**

**Stipulation IV(B)(1) requires the State to institute a process to identify and review the environmental effects of the proposed project.**

#### 2010 Final Report Finding

DOT&PF Region staff had the opinion that they did not receive sufficient information from the SEO to fully prepare them for the new process associated with assignment.

#### 2010 DOT&PF Proposed Corrective Action

Section 6004 process and document training was provided to all three (3) Regions during the summer and fall of 2009. The environmental staff was not all available at the time. The SEO will be providing this training again prior to DOT&PF's 15-month monitoring report is due as there are new environmental staff.

#### 2011 Review Status

Based on interviews during the 2011 Review, the Team learned that the SEO has conducted some 6004 training in two (2) Region offices since the 2010 Final Report (the other Region office received the training shortly before the 2010 Review), however



interviews in both Region offices indicated a common desire for more training related to the assignment. We consider the 2010 Final Report Finding closed at this time.

## **12) MOU Reference IV(B)(1)**

**Stipulation IV(B)(1) requires the State to institute a process to identify and review the environmental effects of the proposed project.**

### 2010 Final Report Finding

The Regions stated that they have been able to do things in the past that they cannot do now. The change has been more documentation, more detail. They acknowledged updating their procedures; however, many of the practitioners are still unfamiliar with them.

### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of the 6004 program. The terms of the 6004 MOU do not provide DOT&PF the same flexibility that FHWA has with interpretation of the regulations. The Regions may view this as not being able to do things under the 6004 MOU that they could under FHWA.

Section 6004 process and document training was provided to all three (3) Regions in the summer and fall of 2009. Not all environmental staff were available at the time, and the SEO intends to provide this training again prior to DOT&PF's 15-month monitoring report is due as there are new environmental staff.

### 2011 Review Status

An interview at one (1) Region office provided evidence of frustration related to the standard of documentation required by the SEO. The Team saw no evidence during review of project files that quality control efforts by the SEO identified a standard beyond a level required to document compliance with the 6004 assumption. Based on interviews of DOT&PF staff, the Team learned that 6004 Training was provided at two (2) Region offices since the 2010 Review, and that additional training is under development. None of the individuals interviewed indicated unfamiliarity with the State's 6004 procedures. We consider the 2010 Final Report Finding closed at this time.

## **13) MOU Reference IV(B)(1)**

**Stipulation IV(B)(1) requires the State to institute a process to identify and review the environmental effects of the proposed project.**



#### 2010 Final Report Finding

In DOT&PF Region offices, there was stated uncertainty in processing requirements, detail, etc.

#### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of the 6004 program.

The SEO will evaluate the environmental procedure manual and procedures and determine if there are any areas that can be improved to increase efficiency and streamlining.

#### 2011 Review Status

No interviews with DOT&PF staff or Alaska Division staff indicated uncertainty in processing requirements, detail, etc. We consider the 2010 Final Report Finding closed at this time.

### **14) MOU Stipulation IV(B)(2); IV(E)(1); DOT&PF Procedures for processing and documenting Programmatic Categorical Exclusions (PCEs)**

**Stipulation IV(B)(2) requires the State to carry out a review of proposed CE determinations, including consideration of environmental analysis and project file documentation, prior to the State's approval of the CE determination. It further states that the process shall include at a minimum, review of the documentation and proposed determination by a competent reviewer who is not the preparer of the CE documentation. Stipulation IV(E)(1) requires the State to carry out regular quality control activities through the SEO to ensure that its CE determinations are made in accordance with applicable laws and the MOU. The DOT&PF Environmental Manual requires the PCE approval to identify the specific internal PCE that applies**

#### 2010 Final Report Finding

Twenty-six (26) of 28 project files for 'c' list PCEs provided no evidence of the specific PCE used for an assigned project.

#### 2010 DOT&PF Proposed Corrective Action

There was some initial confusion regarding the 'c' list and the use of programmatic agreements as the process was different than it was under FHWA prior to the signing of the 6004 MOU. This concern has been addressed through changes in Statewide NEPA Manager and REM processing of 'c' list PCEs. The SEO will continue to work with all three (3) Regions to develop and issue procedure and process clarification (through a



Chief Engineer Directive) on how to address the processing of PCEs. Clarification on the processing of PCEs will be emphasized in Section 6004 process training provided to all of the Regions.

### 2011 Review Status

Based on the 2011 interviews, the Team learned that specific training on PCE processing has not yet been developed. The DOT&PF environmental manual requires the PCE approval to identify the specific internal PCE that applies. The review of 28 PCE project files revealed that only four (4) did not identify the specific internal PCE that applies. We consider the 2010 Final Report Finding closed at this time.

## **15) MOU Stipulation IV(D)(1)(a)**

**Stipulation IV(D)(1)(a) requires the State to use appropriate managerial and technical expertise to perform functions required under the MOU, and applicable laws, regulations, policy, and guidance.**

### 2010 Final Report Finding

It was stated that Regions are shopping for answers from FHWA Area Engineers. DOT&PF staff should have adequate capabilities to assume 6004 responsibilities. The cause may be high turnover of Region staff and a reduced pool of applicants, who may lack relevant experience. The effect is confusion in processing assigned projects, ignorance of procedures or roles/responsibilities and possible delay in processing project reviews and approvals.

### 2010 DOT&PF Corrective Action

The SEO will continue to work with all three (3) Regions regarding procedure and training for the 6004 process. The SEO will work with the Region and Research staff to determine the training needs for environmental staff with the intent of developing an environmental staff training program.

### 2011 Review Status

Based on information gained from interviews at DOT&PF and the Division Office, there have been no instances of Regions shopping for answers from FHWA Area Engineers. We heard from interviews in the Region and Statewide Offices of the DOT&PF that when technical questions arise for an assigned project, analysts and REMs try to work them out and, if necessary, involve the SEO. Information from a SEO interview indicated that when the SEO explains an answer to an issue, the analyst, the REM, and sometimes the project manager is present to hear the explanation. Multiple sets of ears hear the message to increase consistency. We learned from an interview in the SEO that they are currently developing a training program for environmental analysts, the



REMs, and the NEPA managers and plan to initiate training this Spring. We consider the 2010 Final Report Finding closed at this time.

## **16) MOU Stipulation IV(D)(1)(b)**

**Stipulation IV(D)(1)(b) requires the State to devote adequate financial and staff resources to carry out responsibilities assumed by the State under the MOU.**

### 2010 Final Report Finding

Four (4) State staff indicated in interviews a problem in running out of training funds and/or not enough Region staff to cover workload. One (1) interviewee stated that the Region ran out of funding for necessary training to perform the 6004 assignment.

### 2010 DOT&PF Proposed Corrective Action

The SEO along with the Regions will continue to assess the adequacy of staffing levels and workloads associated with the State's 6004 program. The SEO expects to address this matter in DOT&PF's 15-month monitoring report.

DOT&PF is attempting to seek additional funding in the annual operating budget for environmental training related to the implementation and maintenance of the State's 6004 program.

### 2011 Review Status

Based on information gained from interviews, training money for environmental staff is available and has been expended bringing in training from the National Highway Institute and through less formal mentoring approaches. We learned that funding for training will always be an issue, in part due to the cost of travel. We could not confirm that additional funding for environmental training had been secured in the annual operating budget. Interviewees described creative methods of training, like utilizing mentoring by Region and SEO staff. There was ample evidence of the SEO implementing NEPA training, and training focused on the implementation for this assignment. We were told that the DOT&PF developed a power point training session, and delivered it to Region Offices as part of the NHI NEPA course presentation. The Team was told that the SEO arranged for Judy Bittner, the Alaska State Historic Preservation Officer, and her staff to provide two days of training in two (2) Regions. The SHPO staff discussed Section 106 training. We consider the 2010 Final Report Finding closed at this time.



## **17) MOU Stipulation IV(D)(1)(b)**

**Stipulation IV(D)(1)(b) requires the State to devote adequate financial and staff resources to carry out responsibilities assumed by the State under the MOU.**

### 2010 Final Report Finding

Three (3) interviews revealed that a Region office is understaffed and 6004 has exacerbated the shortage because of additional scrutiny and paperwork. New roles associated with the Assignment (e.g., 106, 404, 6004) have made the situation worse. One (1) interviewee also identified trouble with retention of qualified personnel.

### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of the State's 6004 program.

The SEO, along with the Regions, will continue to assess the adequacy of staffing levels and workloads associated with the State's 6004 program. The SEO expects to address this matter in DOT&PF's 15-month monitoring report.

### 2011 Review Status

Based on information gained from Region interviews, staff regularly indicated they were overworked, but not necessarily understaffed. The general assessment from interviews from what we were told is that current staffing levels have made it a challenge to maintain the program, but they have sufficient staff to implement the assignment, though not at a level that fully realizes its streamlining potential. Regarding the corrective action plan, assessment of staffing occurs in Regions rather than by the SEO. When new staff is hired, Region Environmental Managers mentor them regarding their job responsibilities, including those related to this assignment. We were told that one (1) Region still has a couple of vacancies in active recruitment. We learned from the SEO interviews that they still needed to fill one (1) position and hope to fill this vacancy in the Spring of 2011. They prioritize what they can and cannot do. A SEO staff remarked that this has directly affected the development and delivery of training sessions. This has forced SEO staff to do more one-on-one mentoring, which has helped a lot in a variety of ways. It was acknowledged in several interviews that the State experiences regular turnover of staff, in part due to competition from the private sector or other agencies. Turnover creates an ongoing demand for training newly hired staff. In reference to the Region with the 2010 Final Report Finding, we have learned from interviews, they have reorganized the environmental staff, they have hired new staff, and they have reclassified two (2) additional positions to increase the number of environmental staff. We consider the 2010 Final Report Finding closed at this time.



## **18) MOU Stipulation IV(D)(1)(b)**

**Stipulation IV(D)(1)(b) requires the State to devote adequate financial and staff resources to carry out responsibilities assumed by the State under the MOU.**

### 2010 Final Report Finding

One (1) interviewee did not think the Region had adequate resources to make NEPA decisions. There were statements that staff is underpaid and should be promoted two (2) steps in range.

### 2010 DOT&PF Proposed Corrective Action

The SEO, along with the Regions, will develop an assessment of adequacy of staffing levels and workloads associated with the State's 6004 program. The SEO will continue to work with all three (3) Regions regarding procedure and training for the 6004 process. The SEO will work with the Region and Research staff to evaluate the training needs of the environmental staff with the intent of developing an environmental staff training program.

### 2011 Review Status

Based on information gained from interviews in the Regions, the Regions that expressed a desire for additional staff also were the Regions who had vacancies to fill. One (1) Region supervisor indicated they were adding environmental staff positions, by reclassifying positions from other functional groups, in an effort to address the environmental workload. The Team heard from interviews that the State has not changed its classification of environmental staff that might increase pay scales in order to increase retention. The SEO informed us that they are developing an environmental staff training program that may make DOT&PF a more attractive place to work. We consider the 2010 Final Report Finding closed at this time.

## **19) MOU Stipulation IV(D)(1)(c)**

**Stipulation IV(D)(1)(c) requires the State to demonstrate in a consistent manner, the capacity to perform the State's responsibilities assigned under this MOU and applicable federal law.**

### 2010 Final Report Finding

Region staff made statements regarding the adequacy of staffing that ranged from a need for additional staff to assist with administrative functions, to staff being overloaded with additional responsibilities to the extent that it has impacted capacity to perform the 6004 assignment.



#### 2010 DOT&PF Proposed Corrective Action

The SEO, along with the Regions, will develop a qualitative method for determining the adequacy of staffing levels and workloads associated with the State's 6004 program. The SEO expects to address this matter DOT&PF's 15-month monitoring report.

#### 2011 Review Status

Information gained from interviews in two (2) Regions touched on the need for additional staffing to assist with administrative functions. While the SEO indicated they would assess staffing levels, we were informed that staffing actions in Regions are taken by Region supervisors. One (1) Region staff expressed a desire for a dedicated staff member for project file management. Information from interviews in a different Region indicated a great commitment of staff (both full time staff and consultants) to organize project files, overseeing their security, and their management. After completing our file reviews, we believe this extra measure of effort and attention resulted in generally more complete project files. Based on information gained from Region interviews, staff indicated they were overworked but had sufficient capacity to perform adequately under the 6004 program. None of the interviewees indicated their offices were understaffed, although several offices still had vacancies. We consider the 2010 Final Report Finding closed at this time.

### **20) MOU Stipulation IV(D)(2)**

**Stipulation IV(D)(2) requires the State to maintain, either on its staff or through the use of consultants, all of the environmental and technical expertise needed to carry out the responsibilities of the MOU. The State has assumed responsibility for project-level air quality conformity determinations.**

#### 2010 Final Report Finding

DOT&PF staff stated that they do not have good "coverage" of the air quality technical discipline. The cause is unknown.

#### 2010 DOT&PF Proposed Corrective Action

The SEO will continue to work with the Regions to establish the necessary training Region staff may need to successfully complete the work under the State's 6004 program. The SEO will work to ensure that there is an air quality subject matter expert in the SEO.

Northern Region recently completed a contract with Sierra Research to prepare both program conformity, and project level air quality conformity determinations. This example will be provided to the other two (2) Regions.



The SEO will continue to work with the Regions on developing a list of core courses to be added to an environmental staff training program. The SEO has identified air quality as a core course in the initial development of a training plan for DOT&PF environmental staff.

#### 2011 Observation

Based on information gained from interviews, the issue of “coverage” of the air quality technical discipline has been addressed. In every instance during an interview, the interviewee was able to identify at least one (1) individual who they could approach with a question on air quality conformity. However, none of those individuals identified was the same, whether the interviewee resided in a Region or SEO. Although it is adequate that all interviewees were able to name someone as a source for air quality conformity information, the State should have at least one (1) commonly known source for consistency purposes. The cause for this situation may be that the SEO has not yet been able to identify a staff or consultant who may be a central resource to everyone. The effect may be possible inconsistency in conformity evaluations and determinations. Corrective action may entail the identification of DOT&PF staff who are conformity experts as part of an air quality core course, as part of regular teleconferences, or other environmental meetings. We consider the 2010 Final Report Finding closed at this time.

#### **21) MOU Stipulation IV(F)(3,4)**

**The MOU requires the State to maintain proper project and administrative records pertaining to their responsibilities under the MOU for availability to FHWA and the public.**

#### 2010 Final Report Finding

In one (1) Region Office, nine (9) of 11 project files reviewed lacked sufficient project documentation required by the MOU and/or evidence that the State's procedures had been followed.

#### 2010 DOT&PF Proposed Corrective Action

The SEO has been working with SER to assist in getting a file structure in place and correct deficiencies in the project files. SER has added staff to address the project files. SER has also coordinated with the SEO and other Regions to gain assistance on project file structure, contents, etc.

The SEO staff recently reviewed four (4) project files for consistency with the environmental procedures manual and the 6004 MOU. The SEO will continue to work with all three (3) of the Regions on their project file management and structure to ensure



that the project files are consistent with the procedures manual and the requirements of the 6004 MOU.

#### 2011 Review Status

Of all project files reviewed (46) only four (4) lacked sufficient documentation required by the MOU and/or evidence that the State's procedures were followed. In the Region Office referenced in the 2010 Finding, all project files but two (2), (13 of 15), contained sufficient project documentation as required by the MOU and evidence that the State's procedures had been followed. We consider the 2010 Final Report Finding closed at this time.

### **22) MOU Reference IV(F)(3,4)**

**The MOU requires the State to maintain proper project and administrative records pertaining to their responsibilities under the MOU for availability to FHWA and the public.**

#### 2010 Final Report Finding

In another Region Office 12 of 26 project files reviewed lacked sufficient documentation required by the MOU and/or evidence that the State's procedures had been followed.

#### 2010 DOT&PF Proposed Corrective Action

The SEO will continue to work with the Regions on developing a project file structure and maintaining project files. The SEO will provide training to the Regions on file management and work with the staff within the Regions to ensure consistency with the procedures manual and the 6004 MOU. The SEO will schedule a time with Central Region to conduct a similar project file review as has been recently conducted in both Northern and Southeast Regions.

#### 2011 Review Status

Of all project files reviewed (46) only four (4) lacked sufficient documentation required by the MOU and/or evidence that the State's procedures were followed. In the Region Office referenced in the 2010 Finding, all project files but two (2), (11 of 13), contained sufficient project documentation as required by the MOU, and evidence that the State's procedures had been followed. We consider the 2010 Final Report Finding closed at this time.

### **23) MOU Reference IV(B)(5)**

**Stipulation IV(B)(5) of the MOU requires the State to document in each approval of its determinations the following finding: "The State has determined that this**



**project has no significant impacts on the environment and that the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to Chapter 3 of title 23, United States Code, Section 326 and a Memorandum of Understanding dated September 22, 2009, executed between FHWA and the State”.**

#### 2010 Final Report Finding

Thirty-eight (38) of 102 project files reviewed lacked evidence of the required finding from Stipulation IV(B)(5). Thirty-four (34) of these project files were for projects that were either ‘c’ list CEs and/or Re-evaluations. The project files should have included documentation of the required CE approval finding. The cause may be that little documentation is developed for some ‘c’ list CEs and DOT&PF was unfamiliar with the need to include this finding in their normal processing of ‘c’ list CEs and did not recognize that the finding was and required for Re-evaluations. The effect is inadequate project documentation of the State's responsibilities, authorities, and liabilities file under the assignment.

#### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State's 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of ‘c’ list actions and Re-evaluations.

This finding was a result of unforeseen oversight during DOT&PF and FHWA development of the 6004 program procedures and forms. The SEO will revise the forms to include this language to make certain that this issue is not missed in the future. The SEO also needs to emphasize this portion of the 6004 MOU in future training sessions.

#### 2011 Review Status

Based on reviews of project files that contained approved environmental documents, only one (1) lacked evidence of the finding required for an approved assigned project. Additionally, the Review Team observed five (5) project files that included only a portion of the required finding specified in Stipulation IV(B)(5). Based on information gained from interviews, we understand that DOT&PF has not revised any of the forms to include this finding. The cause was suggested during an interview with SEO staff. They indicated that the SEO was understaffed and working on tasks assigned a higher priority. The effect is that the State's records do not clearly document their efforts. The Team recognizes the notable improvement the State has achieved in the absence of their proposed form revisions and training. We anticipate that the SEO will follow through with their proposed corrective actions and in light of the marked improvement, we consider the 2010 Final Report Finding closed.



## **24) MOU Reference IV(B)(5); DOT&PF Environmental Manual Chapter 8**

**The MOU requires the State to document in each approval of its determinations the following finding: “The State has determined that this project has no significant impacts on the environment and that the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to Chapter 3 of title 23, United States Code, Section 326 and a Memorandum of Understanding dated September 22, 2009, executed between FHWA and the State”.**

### 2010 Final Report Finding

Nine (9) of 11 Re-evaluations reviewed did not contain the required finding. The cause for this may be a lack of familiarity with the new DOT&PF Environmental Manual Chapter on Re-evaluations and a general lack of understanding on the purpose and requirement for a Re-evaluation pursuant to 23 CFR 771.129.

### 2010 DOT&PF Proposed Corrective Action

The FHWA review of the State’s 6004 program was conducted less than seven (7) months into the program, and there was some initial confusion regarding the implementation of Re-evaluations as the process was different than it was under FHWA prior to the signing of the 6004 MOU.

The SEO will provide training regarding Re-evaluations and 6004 process to all three (3) Regions. The SEO will work with the Regions to develop a list of core courses to be added to a training program for the environmental staff.

### 2011 Review Status

Based on reviews of 14 approved Re-evaluations, none lacked evidence of a finding; however six (6) included only a portion of the required finding specified in Stipulation IV(B)(5). Based on information gained from interviews, we understand that DOT&PF has not revised any of the forms to include this finding. The cause was suggested during an interview with SEO staff. They indicated that the SEO was understaffed and working on tasks assigned a higher priority. The effect is that the State’s records do not clearly document their efforts. The Team recognizes the notable improvement the State has achieved in the absence of their proposed form revisions and training. We anticipate that the SEO will follow through with their proposed corrective actions and in light of the marked improvement, we consider the 2010 Final Report Finding closed.





U.S. Department  
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**Federal Highway  
Administration**

DOT&PF Project #	1 Activity id'd (IVB6)		2 UC considered (IVB6)		3 Identify and review effects (IVB1)		4 CoA Concurrence by Statewide		5 Document exclusion findings (IVC1)		6 Notify FHWA for excluded project (IVC2)		7 Sig, title, printed name (IVB4)		8 PCE concurrence		9 PCE Identified (manual - PCE agreement)		10 Prep/review doc determine CE (IVB2)		11 Included Findings from M (IVB5)	
	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO	Region	SEO
pending5																						
68644	F		F																			
68678			F																			
68707	F																					O
68979			F		O								F									
69335			F										F									
69337			F										F				F					
69408			F																			F
69540 (2)			F		O																	
69552			F																			
69555			F										F									
69568	F																					F
69600			F																			
69620			F																			
69633			F		F; O																	
69687			F																			

Key



U.S. Department  
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**Federal Highway  
Administration**

Approved:

*Sandra Garcia-Aline*  
*Assistant Division Administrator*  
*Alaska Division, FHWA*

5/24/11

Date



Report prepared by:

FHWA Alaska Division Office  
709 West 9<sup>th</sup> Street, Room 851  
Juneau, AK 99802-1648  
Phone: 907-586-7418  
FAX: 907-586-7420

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