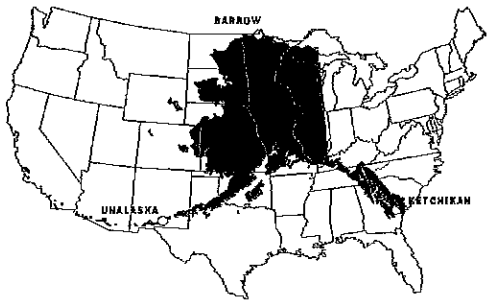
U.S. Department of Transportation

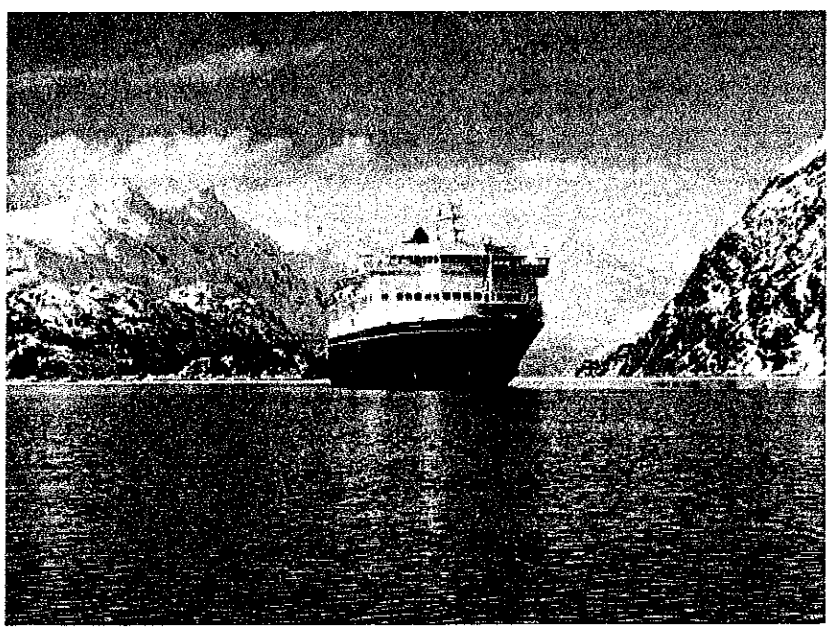
Federal Highway Administration

Program Review



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

July 2010



FINAL REPORT

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Executive Summary

The purpose of this compliance review is to assess the performance of the State in its 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). Although this review was required by the MOU, the 6004 Assignment was identified as one of the FHWA Alaska Division's Top 10 Risks in their 2010 Risk Assessment; this fact gave additional impetus to conducting the review. 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 MOU when it expires. This is the first review of the State's assumption of environmental responsibilities and it was expected to identify possible issues or problems that arose in the transition from old procedures and roles, where the FHWA Division Office made decisions, to new procedures and roles where the individuals at the State made decisions.

A team of three individuals from the Federal Highway Administration (FHWA), representing both the Alaska Division Office and the Headquarters Office of Project Development and Environmental Review, visited the three Alaska Department of Transportation and Public Facilities (DOT&PF) Region offices and three Statewide offices to conduct monitoring tasks between March 17 and March 26, 2010. This team conducted interviews with key project development staff at the State as well as in the FHWA Alaska Division Office. They also reviewed project records for CE projects that were determined assignable under the MOU, projects judged by the State not to be assignable to the MOU, and project and financial files in FHWA's office. The team reviewed 102 project files for 66 projects (frequently, Region and Statewide Office files for the same project) at DOT&PF offices; in addition, over 40 financial files and several project files were reviewed in the FHWA Alaska Division Office. Based on this assessment, DOT&PF has intended to carry out its assigned responsibilities adequately and in good faith. An outcome of this monitoring are a number of recommended corrective actions that all the offices visited should implement in order to address performance issues that were identified. Since this assignment is still in its initial implementation phase, the need for continuous adjustments to improve procedures as corrective actions will be necessary.

The specific purpose of the review was to:

- Verify DOT&PF's compliance with the provisions of the Section 6004 MOU;
- Evaluate the State's performance in carrying out the procedures established for the CE Assignment; and
- Evaluate the effectiveness of those procedures in achieving compliance.

This review also considers the understanding and actions of FHWA Division staff related to their role in the project development process, particularly related to 6004.

The Compliance Review found that the DOT&PF's Environmental Manual chapters related to 6004 are in substantial compliance with the Federal-aid laws, regulations, and policies. However, the team identified several procedures and forms needing revision for clarification related to MOU requirements and to address confusion among staff.

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

1. The FHWA Alaska Division disagreed with the State's determination that one project met the criteria for assignment, and formally excluded the project from the Assignment. The effect of this action is that the State's Class of Action determinations are now identified as a performance concern subject to monitoring.
2. One Region office of the DOT&PF showed systemic deficiencies in fulfilling their responsibilities under the MOU.
3. Some offices of the DOT&PF appear to have insufficient staff and/or training resources.
4. The DOT&PF does not have a performance monitoring and quality assurance program in place.
5. The DOT&PF's procedures are not being applied consistently throughout the state.
6. The FHWA Division must guard against inappropriate involvement in 6004 decisions and must increase diligence on appropriate records management and project authorization procedures.
7. DOT&PF's data and file management needs substantial improvement.
8. DOT&PF and FHWA Division staffs need additional training in project development and 6004 procedures.

During the review, the team identified six best practices in DOT&PF offices that included:

- The hiring of individuals who meet the Secretary of Interior's Qualifications Standards for historic preservation professionals in preparation for assuming responsibilities under Section 106 of the National Historic Preservation Act.
- Implementation of effective quality control procedures.
- Commendable project oversight by the NEPA Managers for 6004.
- Innovative tools and protocols implemented in one Region office that facilitate quality control and file management.
- Implementation of a Class of Action determination procedure which led to statewide consistency in decision making.
- Consistent documentation and notice to FHWA on projects excluded from assignment.

The results of this review begin on page 10 with a list of Major Observations and Findings and continue through Table 1 on page 24. The spreadsheet in Appendix A is a visual representation of the distribution of findings and observations gained from project

file reviews relative to specific MOU requirements, federal regulation requirements, or DOT&PF procedures.

The FHWA still believes the 6004 Assignment is an area of high risk deserving of continued evaluation and monitoring. Over the next few years, the FHWA Alaska Division and the 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 file and records management; 6004 procedures; and National Environmental Policy Act (NEPA) project development

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

- Updating policies, procedures, and forms
- Targeted training related to file and records management; 6004 procedures; and NEPA project development
- Establishment of a performance monitoring and quality assurance program
- Establishment of an additional level of quality control process for one Region office
- Assessment of staffing levels and capabilities

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

- Joint training on 6004 procedures related to project authorizations

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 11th 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 first 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 FHWA 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 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 CRF 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.

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.

H. Review the adequacy of the CE determinations and supporting technical studies associated with ARRA projects.

Scope and Methodology

The review team visited the DOT&PF Statewide Environmental staff in Juneau, Anchorage and Fairbanks, AK to 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 all DOT&PF Region Offices to review project files and conduct staff interviews. The team attempted to review all projects listed on the quarterly reports. The site visits were closely coordinated with DOT&PF Headquarters and Region staff. A closeout meeting was held via telephone on March 26, 2010.

The provisions of the Section 6004 MOU are the primary criteria the review team is using to verify compliance. In addition, the team considered the six 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 project team reviewed over 100 project files for 66 projects. The larger number of file reviews is due to reviewing Statewide and Regional files, which may mean that two files were reviewed for a single project.

The team reviewed all projects listed in a quarterly report plus 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 were not based on sampling, rather the team attempted to review all projects believed subject to assignment.

Interviews were conducted for the following staff:

- DOT&PF Statewide Environmental Manager
- DOT&PF Statewide NEPA Manager (3)
- DOT&PF Region Environmental Manager (3)
- DOT&PF Region Design and Environment Group Chief (3)
- DOT&PF Environmental Analyst
- DOT&PF Preconstruction Engineer
- FHWA Area Engineer (3)
- FHWA Field Operations Engineer

Team Members

Tim Haugh, Environmental Program Manager, 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. He is a NEPA and Section 4(f) subject matter expert and has extensive knowledge and experience of the environmental program.

Mike Vanderhoof, Statewide Programs Team Leader, is a member of the review team from the Alaska Division Office. He brings extensive knowledge of FHWA NEPA and Section 4(f) regulations, processes and procedures from the perspective of the Alaska Division Office, and from working at a State DOT, FHWA Federal Lands Highway Division and the Colorado Division Office. He is also a recognized NEPA subject matter expert.

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.

Observations and Recommendations

This report identifies Findings, Observations and Corrective Actions that are organized as: Major Observations and Findings – these are comprehensive explanations that have been provided for more complex situations, involve multiple observations/findings, or relate to apply to multiple MOU stipulations; and in Table 1 – Findings, Observations and Corrective Actions – this provides a summary of additional findings, observations, corrective actions, and recommendations based on staff interviews and project file reviews.

Additionally, a Master File Review Spreadsheet that identifies findings and observations, based on file reviews alone, by State project number is located in Appendix A.

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.

Finding

3 project files were reviewed that did not contain adequate documentation to verify that they were assignable categories of actions or had met Stipulation IV. Another project file was reviewed that alluded to potential joint funding (which would exclude the project from assignment). An additional project file was reviewed that had a scope of work that appeared outside of the scopes of activities described in Stipulation I(A). In each case, the project file contained references to a scope of work or possible joint funding that would render the project not assignable, but contained no documentation addressing these questions regarding the applicability of assignment.

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.

Finding

In a sixth case, on two separate occasions, a project had previously been determined by the FHWA to require an Environmental Impact Statement. Consultation between the FHWA and State had occurred intermittently for four years, including many meetings occurring over the last 6 months to exchange information and discuss the Class of Action. In each case, the 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 while good faith discussions with FHWA were still ongoing. The DOT&PF asserted during these discussions that they believed that the project met the scope and criteria of a CE and should be allowed to accept the risk of processing the project as a CE.

After a review of the project scope and potential effects, the FHWA made a determination that the number of potential environmental issues, coupled with the lack of detailed information regarding the context and intensity of impacts, made it impossible to make any supported determinations regarding the potential significance of environmental impacts. In addition, there was insufficient information for the FHWA to determine that this project would meet the conditions of 23 CFR 771.117 (a) or (b) in order to be classified as a Categorical Exclusion. The FHWA determined the project to be a Class III action requiring the preparation of an Environmental Assessment to determine if an Environmental Impact Statement is required. The FHWA subsequently excluded the project from assignment, pursuant to Stipulations III(B), IV(A), and X(B), citing deep concerns regarding the determination and the State's stewardship of its responsibilities under the MOU.

In this case, the DOT&PF should have weighed more fully the responsibility assigned under the MOU and the prudency of asserting assignment. The cause may have been a misunderstanding of the discretion provided under the MOU [see Major Finding and Observation regarding Stipulation I(A,B)]. The effect of this occurrence is that the appropriateness of the State's determination of a project's class of action is now identified as a performance issue as a result of this compliance review. The State is now on notice that its determinations of class of action will be a subject to monitoring at any point FHWA considers necessary. If future occurrences of misclassified actions continue to occur, FHWA will take action to address this issue, including termination of some or all of the responsibilities assigned to the State.

At a minimum, this review has found 5 instances where project files did not adequately document that projects fall within assignable categories of action (Stipulation I). The project records should provide sufficient detail and adequately document the applicability of assignment.

The effect is an increase of risks to the State for the appropriateness of its decision making. It is possible their decisions may have increased risk of challenge or claims. However, the major risk posed in these situations is that they increase the possibility that a project would not be appropriately assigned to the State, which would violate the intent of the MOU and Congress. A project with joint federal funding sources is not assignable and typically poses an increase in complexity in regulatory compliance. A more concerning outcome is the risk that a project that will result in significant environmental impacts would be classified and advanced as a CE without the full decision making benefits of an EIS process. This could create the perception that the MOU process is being used to circumvent NEPA requirements, as opposed to allowing the State to achieve potential efficiencies through the internal processing of CE designations.

Corrective Action

Because there is a question about the appropriateness of the assignment determination made by the State for the first five projects cited above, FHWA requests all relevant documentation for these projects to be provided within 60 business days. FHWA will review the complete project records to make sure the assignment determination is appropriate. FHWA will take no actions to approve any request for Authority to Proceed (ATP) for these projects until this review is completed. If a determination by the State is not appropriate, then FHWA will take steps to exclude that project from assignment.

The State should ensure documentation requirements for all projects are stringently enforced to avoid situations where files lack fundamental elements required by the MOU stipulations. This may come about through the use of checklists and by implementing a quality control program for project recordkeeping. Because the gaps in project records may also have resulted from ignorance of the new process by State staff, the State should implement a training plan with focused training or workshops on NEPA project development, required project documentation and record keeping.

2) MOU Stipulation I(A,B) - Designated Activities Within Scope of Assignment

Observation

Information gained through interviews and review of project records indicates that there is some confusion in what actions are included in the example activity of modernization of a highway, especially regarding realignment projects. One project, 62638, may be a realignment project that falls outside the scope of "highway modernization." Since the term "realignment" is not included in the activity listed in regulation for highway modernization, it is necessary to interpret when a roadway realignment is part of modernization of a highway (assignable under the MOU) and when it is not (not assignable).

The intent in the description of actions associated with highway modernization appears to be limited to those that limit, for the most part, construction activities to the footprint of the existing roadway or at most abutting the existing roadbed. In this way, minor realignments would likely fit with the highway modernization category. But when roadway realignments depart a distance further than the existing roadbed, there is the likelihood of greater environmental impacts that are usually associated with new highway alignments. While one could argue that realignments that depart from existing roadways may still result in no significant impacts, because highway realignment is not an action listed in regulation and has not been included in Appendix A of the MOU, it would not be assignable.

Stipulation I(A,B) in the MOU defines the scope of activities that the State may determine as a designated activity that 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). With assignment of this responsibility, the State must determine whether the proposed activities of a specific project are included in the actions listed in regulation. Because the actions listed in regulation are described in general terms, some interpretation is needed to determine whether a specific project action fits the class of action listed in regulation. This discussion focuses on how one action, *highway realignment*, may or may not fit under modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes.

The MOU is silent regarding the process the State must follow to make its determinations. However, Stipulation IV(A)(1) says that the FHWA may terminate the MOU or a responsibility assigned in the MOU if the State makes determinations not in accordance with FHWA regulations. Also, while the MOU lacks language on how the State should ensure that its determinations comply with the scope of the actions in regulations, the monitoring provisions of the MOU allow the Division Office to evaluate whether those determinations are in accordance with FHWA regulations.

Observation

One of the interviews with a Statewide Office staff reflected recognition that there is discretion in the State's determination of which activities are assignable. That individual indicated that, because the State had waived its sovereign immunity under the 11th Amendment to the US Constitution, the liability assumed allowed for sole discretion in the State's determinations. FHWA would assert that with the assignment comes the responsibility that determinations made by the State may result in unintended policy implications that go beyond the individual project. Recently, the US Department of Justice (DOJ) commented on a draft of the renewed MOU for California's assignment of CE responsibilities expressing a concern about the possible latitude allowed a State in making its CE determinations. The DOJ asked for language to be added to the MOU that includes FHWA in some determinations as a check to the latitude. FHWA responded to DOJ by saying that such involvement of FHWA did not conform to the intent of Congress in this assignment and that the determinations are monitored and

responded to DOJ by saying that such involvement of FHWA did not conform to the intent of Congress in this assignment and that the determinations are monitored and any concerns may be addressed through corrective action or, as a last resort, MOU termination.

There are several potential effects of having confusion among practitioners regarding the scope of highway modernization. First, would be a difficulty establishing any consistency across Region offices. Second, would be the risk that the DOT&PF migrates toward a risk based class of action determination rather than one based on scope and intensity of impacts, the potential for unusual circumstances, etc. FHWA recognizes there is inherent flexibility offered by several of the CE examples and the State sovereign immunity waiver; however, it is also clearly prudent to set parameters to minimize the risk that an action will be inappropriately classified.

Recommendation

The issue of the amount of latitude practiced by the State in making determinations whether or not an action is assignable needs to be addressed jointly by the State and FHWA. This monitoring has established that the action of highway realignment may not be appropriate to be designated as a highway modernization. Since highway realignment is not an action listed in regulation, the State should refrain from assuming CE responsibilities for such future actions until the State can justify its designation. DOT&PF should prepare a proposal that quantifies and qualifies a realignment project as highway modernization. FHWA will review the proposal and consider the appropriateness of the proposed designation criteria, working with the State, as appropriate.

An alternative course of action for the State is to propose an amendment to the MOU that includes highway realignments as a designated activity that is assignable under the MOU. The State would need to prepare documentation demonstrating that realignment projects, in fact, do not result in significant impacts. That documentation would then be reviewed by the Office of Project Management and Environmental Review in FHWA's Headquarters' office and by the Council on Environmental Quality. Once approved, the MOU could be amended after a period of public notice and opportunity for comment

3) Stipulation IV(E)(2); IV(F)(1,2,3) - MOU Performance Monitoring and Quality Assurance

Finding

DOT&PF has prepared several quarterly reports of CE decisions. The first report listed only one project and was complete and accurate, but was not provided by the due date. None of the subsequent reports have been considered complete and accurate. The second report was submitted on time, but was subsequently amended to address some omissions pointed out by the Division. With the exception of the first Quarterly Report, the reports have not included all the CE project approvals for the specified interval and contained missing or incorrect project numbers and dates. At the time of our review, the

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 our review.

The MOU requires DOT&PF as part of the performance monitoring and quality assurance, (1) to prepare quarterly reports of CE decisions, (2) to prepare a report summarizing its performance under the provisions of the MOU on the 15th and 30th month of the MOU, and (3) to maintain project records and general administrative records pertaining to its MOU responsibilities.

There are likely several causes for this finding. Based on interviews conducted in the Regions and Statewide offices, no shared data base exists to collect, track, and manage information for CE projects. DOT&PF staff described distinct, separate, and unconnected approaches to collecting and managing information about CE project development. The effect of these differing approaches to collecting and tracking project status is (a) confusion about which projects are assigned or unassigned and (b) uncertainty about which projects have been approved and should be included in the quarterly report by the Statewide Office. The MOU contemplated DOT&PF establishing an electronic records system and information gained from interviews show that at least two electronic records systems are currently in development. The Northern Region Office has relied upon a relational data base to track the status of CE projects for more than 2 years. This system allows reports of approved projects to be listed with a few computer commands. Since time is tracked from initial authority to proceed to CE approval, it is possible to compare the timeliness of CE project development prior to and after DOT&PF assumed 6004 responsibilities. The Central Region Office is developing a different data base system that would accomplish broadly similar things as the data base in the Northern Region. Both the Central and Statewide offices rely upon Excel spread sheets (of differing formats) to currently track the status of their CE projects.

Corrective Action

The DOT&PF should take measures to ensure that complete and accurate quarterly reports are provided to FHWA within 15 business days after the end of each fiscal quarter. Corrective actions might include the development of a single statewide data base system that is consistent and accessible to all Regional staff. This system might rely upon software and technology already in use in the Northern Region Office. Successful implementation of this system would require the development of system and data protocols and procedures, and a manual. While the initiative shown in the development of electronic data tracking systems thus far is laudable, it has not resulted in reliable quarterly reporting and may do little to improve on the accuracy of future reporting. FHWA recommends that the quarterly reports include a column for Section 4(f) approvals.

Observation

Based on information gained from interviews DOT&PF has not developed procedures, a plan or approach for a quality assurance program to evaluate and summarize its overall performance of the provisions of the MOU for reports due on months 15 and 30 of the MOU. DOT&PF staff indicated no process reviews have been conducted, nor were any planned. We observed many instances of attention to errors and omissions in project

decision making and documentation, both in interviews and project records, but we could not determine that a plan or approach to continuously monitor the adequacy, efficiency, and capacity of the procedures of the assigned CE program has been developed.

The cause may be that the assignment is still very new and DOT&PF has focused on its development of implementing procedures, new forms, and quarterly reporting. The effect of not having developed a plan or approach to evaluation of its performance may result in difficultly in preparing reports, perhaps delay the completion of those reports, and missed opportunities to improve the process.

Recommendation

The DOT&PF staff should develop a written plan for program monitoring and conduct periodic (quarterly or semi-annually) day-long meetings between Statewide and Regional environmental staff to discuss what is and is not working regarding procedures and recordkeeping, and regular periodic review of project records for accuracy and completeness. Given that this FHWA monitoring of DOT&PF actions has identified the need for program corrective actions, an effective monitoring approach would entail program observation (i.e., data collection) at least two or three intervals before month 15.

Finding

Our review of project records and information gained in interviews showed that several different approaches exist among Region and Statewide offices to maintain project and administrative records pertaining to MOU responsibilities. Regarding project records, there is a heavy reliance on paper records, although electronic versions of some portion of paper records are also being generated. 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, sometimes at the Statewide office, occasionally a complete record could be compiled from records in the Region and Statewide offices.

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. There appeared to be little attempt to compile those data for later incorporation in a summary report.

The cause of unevenness and at times, incomplete documentation in project and program records may result from the newness of this assignment and attention focused on the initial development and implementation of new procedures. The effect of inconsistent project recordkeeping and the absence of an overall procedure for retaining records of program implementation have resulted in actions not compliant with provisions of the MOU.

Corrective Action

DOT&PF should develop procedures on what records must reside in the Region and Statewide offices, how those records would be retained (on paper, electronically, or both), protocols on what records must be retained and what may be discarded, and a protocol for collecting and storing information related to program implementation.

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

Finding

The team reviewed several project files that provided evidence that Regions had been unresponsive to comments provided by the Statewide Office as a part of their quality control reviews when issuing concurrence on PCEs. These comments usually noted substantive errors or omissions in the documentation, but consistent with the State's procedures many of the reviews occurred after the Regions certified to FHWA that documentation was complete. As opposed to the FHWA who may withhold approval of an Authority to Proceed in order to obtain revisions to a non-assigned PCE, the current procedures for assigned projects provide little leverage for the Statewide Office to assure adequate documentation is completed prior to the Regions' certification to FHWA. The documentation should be complete (i.e. no errors or omissions) prior to the certification to FHWA that the environmental documentation had been completed. The cause was not foreseeing this weakness during the development of the procedures. The effect is FHWA approving funding without adequate documentation being completed. Additionally, due to delay in the Statewide Office's review, important corrections or policy changes may not be relayed by Statewide NEPA Managers to Regional NEPA practitioners in a timely manner.

Corrective Action

The DOT&PF should propose revisions to the procedures to ensure that Statewide Offices' comments are recognized and incorporated into PCE project decision making and to ensure that documentation is complete prior to the State certifying completion to FHWA.

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 intent in developing the procedures for 6004 was to implement a process for assigned projects that would follow the same process as non-assigned projects. Statewide NEPA Managers for 6004 would fulfill the role FHWA Area Engineers had been performing prior to the 6004 Assignment. The text in the manual *infers* that the 6004 NEPA Managers and the Area Engineers will be consulted on the appropriateness of using an existing PCE. Section 5.2.2 of the DOT&PF's Environmental Manual states,

> *"When making the decision regarding documentation, the REM consults with a Statewide NEPA Manager for 6004 (for assigned CEs) or FHWA Area Engineers (non-assigned CEs) to determine if a CE Documentation Form is required. If a programmatic agreement applies and a CE Documentation Form is required, the REM*

will approve (certify) the completed form and forward a copy to the Statewide NEPA Manager for 6004 (assigned CE) or the FHWA Area Engineer (non-assigned CE) for their written concurrence and file".

Pg 5-11 of the DOT&PF's Environmental Manual indicates,

> *"For a class of action determination, the REM will consult in writing with the Statewide NEPA Manager for 6004 to determine if the project qualifies as a CE per 23 CFR 771.117 (c) or (d). The REM should identify the specific CE activity [e.g. d(4)]. If enough information is known about the project a determination on whether a programmatic agreement applies or if a CE Documentation Form is required may be made".*

A literal interpretation of this text would imply that the Statewide NEPA Manager for 6004 or the FHWA Area Engineer does not necessarily have role in determining if a PCE was appropriate for a project. However, the practice for years prior to the assignment was for the REM to consult the FHWA Area Engineer on the class of action and the applicability of the use of a PCE for a specific project. This procedure was the intent of the authors of the Manual. This discrepancy has led to substantial confusion regarding roles and authorities under the assignment. The Manual should have been clear on this point. The effect is confusion and disagreement between the Region and Statewide Offices leading to delay and inefficiencies in project development.

Corrective Action

The DOT&PF Environmental Manual should be revised to address this oversight by specifying that the REMs must consult with, and get concurrence from, the Statewide NEPA Manager for 6004 (for assigned CEs) and the FHWA Area Engineer (for non-assigned) on the applicability of a PCE.

Finding

Numerous file reviews provided no evidence of the specific PCE being used for an assigned project. 26 of 28 project files for "c" list PCEs did not identify the specific PCE used. DOT&PF's Environmental Manual Section 5.2.2 states, that the REM certifies "that certain projects meet the terms of a particular agreement and determine if documentation is needed or not". This language implies that the specific PCE being used will be identified. The project documentation should have identified the particular agreement being used. The cause may be the vagueness of the text as well as confusion over the State's single PCE with three programmatic approvals. The effect is inadequate project documentation.

Corrective Action

The State's Environmental Manual should be revised to clarify that the specific PCE agreement must be identified as a part of the CE approval documentation.

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 Enviromental Manual) requires the REM to certify on the PIS for a project, that the conditions of the applicable PCE (within the single agreement) are met. This requirement is reiterated in the text of the agreement for Approval #1 and Approval #2. The cause may be unfamiliarity with the requirement and the fact that this requirement was overlooked during development of the PIS form. The effect is inadequate project documentation and inadequate notice to FHWA of the specific action the State has taken. The PIS forms should have identified the specific PCE being used.

Corrective Action
Since the PIS form serves multiple functions (some not related to 6004), the DOT&PF and FHWA should collaborate on the revision of the form. We recognize that the DOT&PF has requested a number of times over the last several months to work with FHWA to revise this form; it will be important to address this issue when the effort is undertaken.

5) Alaska Division Office Actions and those Relating to Stipulation XI(A) - State Execution of Assigned Responsibilities Without FHWA Involvement

Finding
Interviews and review of project records indicate several instances of FHWA involvement in environmental compliance for assigned projects. There were several instances where DOT&PF Region staff contacted Division staff to ask whether a CE project was assigned or not and Division staff responded with an opinion. There also were instances where Division staff discussed assigned CE projects (or projects where assignment was still in question) and whether those actions had the "potential to affect historic properties."

The Division Office should not be contacted or otherwise involved in NEPA decision making for assigned CE projects or for projects where assignment is in question. Stipulation XI(A) clearly states that Division Office staff shall not provide project-level assistance to the State. At the same time, FHWA staff has an obligation as part of monitoring DOT&PF's actions under the MOU to identify and communicate to the State, instances of errors and omissions in the evidence of CE processing provided in PIS forms. Timely communication of errors and omissions allows for the State to take timely corrective actions. Therefore, when Division staff review evidence of CE processing (in PISs) for an assigned project and if there are errors or information is incomplete, it is appropriate for those staff to contact DOT&PF to identify those incomplete or erroneous records as part of FHWA's monitoring provisions.

The causes for project related discussions of assigned projects include: (1) a combination of the newness of the directive not to become involved, and a familiarity that exists between DOT&PF regional staff and Division staff, (2) a difficulty among both State and Division staff, in distinguishing between assigned and not-assigned CE

projects, (3) a blurring of project-specific questions and ones that relate to prior projects or clarification of FHWA policies and procedures, and (4) an inherent ethic of streamlining and public service of FHWA staff to provide assistance to solve problems and keep project development moving forward. New procedures and forms (e.g., the PIS) have also been introduced by DOT&PF to provide evidence of CE processing at the time of a request for authority to proceed (ATP) for funding or other action, which may have increased the instances where DOT&PF and FHWA staff have spoken to clarify form requirements that led to conversations regarding assigned projects. The effects of FHWA involvement in assigned projects are an undermining of the responsibilities assigned to the State. FHWA may also be making themselves liable for project decisions where they would otherwise have no involvement or liability.

Corrective Action

The FHWA Alaska Division Office staff must ensure that any involvement they have in a project assigned under this MOU is independent of the CE evaluation and approval. Division staff must guard against making project-specific decisions or even recommendations for assigned projects and must remind DOT&PF staff that the State is responsible for those decisions. However, Division staff must still review requests for authorization of funding and other actions for those same projects. Stipulation II(B)(3)(c) requires the State to provide FHWA evidence that their CE processing and any other environmental responsibilities assigned under the MOU have been completed in advance of any request for funding or other action.

The challenge for FHWA staff is keeping their involvement commensurate with the MOU provisions to respect the responsibilities assigned to the State while also maintaining high standards of quality and completeness in the evidence of CE processing necessary for Division approval requests. Thus, Division Office staff must carefully consider how they respond to project-specific questions to ensure their involvement is appropriate under the provisions of the MOU. Joint training of DOT&PF and Division Office staffs on 6004 procedures should be implemented.

Finding

There were several instances where requests for ATP were approved by FHWA Division Office staff with missing forms (no PIS, no written re-evaluation) or missing (signatures, dates), insufficient, or erroneous information. In reviewing DOT&PF project files, the team observed instances where CE documentation with errors and omissions was approved by FHWA (before the execution date of the MOU). Subsequently, DOT&PF re-evaluated the CE approval under the assignment, and in some cases, did not correct the prior errors and omissions. Consequently, Division staff may have approved requests for ATP based on certifications that relied on incomplete or erroneous documentation. FHWA should not be approving CE documentation with errors or omissions.

CE project files at the Division Office revealed instances of missing documentation for projects assigned to the state as well as for unassigned projects. All CE documentation for non-assigned projects should be in FHWA files. Some project files were not able to

be located; and some lacked CE approval or re-evaluation documentation. For projects not assigned under the MOU, several programmatic CE projects did not have documentation from the Division staff, confirming that the action met the terms of the PCE for non-assigned projects.

Corrective action
The Division Office staff must increase their diligence on appropriate records management and PIS review when approving ATPs. Collaborative action is needed to ensure that the State provides clear evidence that their CE processing and any other environmental responsibilities assigned under the MOU have been completed and that all appropriate CE documentation is provided to the Division Office. This will entail revising the existing forms and training both State and Division staff on their use and submittal. Division staff, through their collaboration with the State in revising the forms and information that is provided with a request for ATP, should be better able to detect any errors and omissions in the information supplied. Timely communication of any errors or omissions to the State should result in timely remedial actions. Division staff should receive training on project file and records management.

6) Stipulations II(C); IV(B,C,D) – DOT&PF Southeast Region

Finding
This review has identified a concentration of findings that were deficiencies in meeting Stipulation IV obligations in the DOT&PF Southeast Region (SER). These deficiencies were evidenced in documentation. The review found that 82% (9 of 11) of SER files were inadequate pursuant to the terms of the MOU. Files contained unsigned or improperly signed documents or missing documentation important to decision making and verification of compliance with the MOU and NEPA. It was also stated during one interview that substantial portions of a 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 compliance with terms of the MOU in the SER.

In several instances, missing documents were determined to exist and were found in the Statewide Office files of the NEPA Manager.

A possible cause of the file deficiencies is the absence of a logical filing system in SER. Binders were supplied to the review team that appeared to contain assigned and non-assigned projects. Several files were not ordered consistently in any chronological or subject-based organizational structure. Another possible cause of the deficiencies is staffing. While general DOT&PF environmental staff has relatively low tenure statewide, this is particularly so in the SER. Staff interviews indicated that even though all 6 of their full time positions were filled, they were understaffed for the workload created by the 6004 process.
Finding
During one interview, the DOT&PF staff asked 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. This was later followed up with an inappropriate direct contact between the SER and FHWA HQ. The Region staff stated during the interview that they were currently in a dispute with their Statewide Environmental Office for coordinating directly with the State Historic Preservation Officer on a project, which is in conflict with their internal procedures.

A cause for this finding is confusion among staff regarding the responsibilities assumed by the State. Staff interviews informed the review team that it was typical to review a Categorical Exclusion Documentation Form (CEDF) up to four times before submitting to the Statewide NEPA Manager and that even after such review, no CE form or written re-evaluation had ever been accepted without any comments. File documentation also indicated 4 instances where the SER staff requested concurrence to proceed with a project citing 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 federal projects. The effects of both staff confusion and a lack of an adequate file and tracking system are that errors and omissions become systemic and full compliance across all projects will be difficult to achieve.

Finding

The documentation and staff issues cited for the SER indicate a lack of adequate staff and 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.

These findings and observations are cross-cutting and apply to a number of MOU Stipulations. Stipulation II(C) makes clear that DOT&PF is subject to the same existing and future substantive and procedural requirements as if those responsibilities were carried out by the FHWA. Stipulation IV sets forth State performance requirements with respect to compliance with governing laws, regulations and the MOU and Stipulation IV (B) establishes requirements for the identification, documentation and review of effects for CE determinations. Stipulation IV(B)4-6 requires the State to document its approval of the CE determination, specify the assigned CE that applies to the proposed project, and include verification of compliance with Federal law, FHWA regulations implementing the NEPA and specific terms of the MOU regarding whether a project may be assigned. Stipulation IV(C)1 requires the State document MOU exclusion findings and the reason for exclusion in the project file. Stipulation IV(D) requires the State to maintain adequate organizational and staff capability and expertise to effectively carry out the responsibilities assigned to it under the MOU, including technical and managerial expertise and resources necessary to consistently demonstrate maintaining adequate capacity to fulfill the requirements of the MOU.

Corrective Actions

Corrective action should include the following. (1) The REM should work with counterparts and Statewide Environmental staff to develop a filing system and immediately assemble complete project records. Complete project records should be

assembled within 45 business days. When the previously incomplete files are made complete, FHWA should be notified and offered an opportunity to review the files. (2) The Statewide Environmental Office should develop a more robust quality control process for the SER that involves mentoring, and frequent on-site file and process reviews. (3) In the longer term, Statewide Environmental staff should provide CE-assignment training and technical assistance to all levels of SER staff. Given the adequate and sometimes exemplary performance of the State in other DOT&PF regions, the State possesses the capability and capacity to address the issues in SER and to immediately improve the ability of the SER to meet the terms of the 6004 MOU.

Table 1
Findings, Corrective Actions, Observations, and Recommendations

Interview or Record Review	MOU Reference	Finding (F) Corrective Action (CA) Observation (o) Recommendation(R)
Division Office Interviews, Region Office Interviews.	II(B)(3)(c)	(F) 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. (F) 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. (CA) DOT&PF and Division Office should undertake training on 6004 procedures.*
Division Office Interviews, Region Office Interviews, Division Office file reviews.	II(B)(3)(c)	(F) Substantial confusion exists regarding the procedure for use of the DOT&PF's Project Information Sheet (PIS). (F) Numerous PISs reviewed in Division financial files and Region Office files contained inconsistencies, errors and omissions. *For each authorization, the DOT&PF should provide 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. (CA) DOT&PF and Division should conduct joint training on this procedure and DOT&PF should development written procedures for the PIS process.*

Region Office and Statewide Office file reviews	IV(A); IV(B)(1); DOT&PF Environmental Manual Sections 5.1; 5.2	(F) 24 of 102 Files reviewed provided no evidence of identifying and reviewing environmental effects of the proposed project. 22 of the 24 were for projects processed as "c" list CEs. (o) DOT&PF's Environmental Manual Section 5.1.1 indicates that checklist forms are required for those "c" list activities that may affect a protected resource. It is unclear how this decision can be made if environmental effects are not reviewed. (o) In only a limited number of interviews were the context and intensity of impacts mentioned as important elements in determining a class of action. (o) DOT&PF's Environmental Manual indicates that the class of action request should determine if the project can be assigned; the current form being used does not provide a section for documentation of this determination. *The MOU requires the State to identify and review the environmental effects of the project in project documentation. Project files inconsistently contained this information. The cause may be that the process instituted by the DOT&PF for determining the COA for a project relies heavily on the "Categorical Exclusion (CE) Class of Action Consultation Form". The form provides no specific space for documenting consideration of Unusual Circumstances or environmental impacts. The effect is insufficient documentation to demonstrate that the State is fulfilling its responsibilities under the terms of the MOU. (CA) The DOT&PF should document these considerations when making a CE determination. The State could modify the COA form to provide a tool for documenting the review and consideration of project impacts. The team recommends the form be modified to indicate if the form is being used as an initial COA or is being used for a Re-evaluation of an earlier environmental document. The form could also be modified to document the applicability of a PCE or Assignment in general.*

Statewide Office Interviews, Region Office and Statewide Office file reviews, DOT&PF website review	IV(A)(6)	(F) DOT&PF developed a supplemented list of actions that would have "no potential to affect" historic properties dated March 12, 2010. (F) 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 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. (CA) DOT&PF must use their best efforts to share developing new policy or guidance with FHWA staff.*
Region Office Interviews	IV(B)(1)	(F) DOT&PF Region staff had the opinion that they did not receive sufficient information from the Statewide Environmental Office to fully prepare them for the new process associated with assignment. (o) There was a request for codified policy and procedures that capture the new process. A lag was identified between when process problems are identified and the eventual development and implementation of corrective actions. (o) It was stated repeatedly that the process has gotten more cumbersome as there is now Statewide involvement and the Statewide contact may vary based on project type. *The MOU requires the State to institute a process to identify and review the environmental effects of projects, but based on interviews, several state staff indicated they were unfamiliar with this process. The cause may be an inconsistent understanding of issues related to the assignment and unfamiliarity with the centralized decision making process that was a required prerequisite to the MOU. The effect is confusion in processing assigned projects and possibly the development of corrective actions in one region and not others. (CA) DOT&PF should develop quality assurance procedures for their 6004 program to identify problems and implement corrective actions and make addressing them and instituting statewide corrective actions a priority. DOT&PF should develop and implement training on 6004 procedures including how to resolve new process problems.*

Statewide Office Interviews	IV(B)(1)	(F) 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. (o) The REMs vary in their understanding of their responsibilities. (F) There was stated uncertainty in processing requirements, detail, etc. (o) It was indicated during interviews of Regional staff that they eventually want the Regions to be autonomous, with oversight by Statewide. Statewide is currently a pinch point. They asserted that as the PA is executed and the Regions establish themselves they should take more authority. *DOT&PF should consistently implement procedures to identify and consider project effects, statewide. The cause of the inconsistent application may be unfamiliarity and/or philosophical disagreement with the centralized decision making and new procedures that necessarily were instituted as a prerequisite to assignment under 6004. The effects are disagreements between Region and Statewide staff, confusion on roles and responsibilities and possibly delay in processing project reviews and approvals. (CA) DOT&PF should monitor and revise environmental manuals, implement an ongoing training program to provide a consistent understanding of 6004 roles, processes, and procedures.*
Region Office Interviews	IV(B)(1,2)	(o) Interviewees stated the following: (a) The Statewide NEPA Managers are more conservative and stringent on documentation requirements than FHWA. (b) It takes much longer to get responses and ultimate project approval and the Statewide office routinely asks for additional information so the approval process requires multiple iterations. (c) The work load has increased; there are now more steps and checks and balances; and the process is not as streamlined as it was when FHWA had the responsibilities. (d) There is now, a little more structure. (o) A positive statement was made that DOT&PF has a better record in getting SHPO concurrence than before the assignment. *The state has established procedures to consider project impacts and a review of proposed CE determinations that is at times, a source of delay. The cause could be that the assignment is still new and the Statewide Office wants to avoid making errors or omissions. The cause may be that prior to assignment FHWA oversight of CEs was less stringent, due to lack of familiarity with procedures, than the Statewide Office has been under the MOU. The effect is the perception that some projects may become unnecessarily delayed. (R) DOT&PF could self-assess its process to identify possible streamlining steps. FHWA Division staff should become familiar with the approved procedures for processing non-assigned projects so that procedures are consistently applied.*

Region Office and Statewide Office file reviews	IV(B)(5)	(F) 38 of 102 project files reviewed lacked evidence of the required finding from Stipulation IV(B)(5). 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 required for Re-evaluations. The effect is inadequate project documentation of the State's responsibilities, authorities, and liabilities under the assignment. (CA) The DOT&PF's procedures and forms should be revised to include the finding for all projects assumed under the MOU.*
Statewide Office Interview, Region Office and Statewide Office file reviews.	IV(B)(6)	(F) 23 of 102 files did not identify the specific categorically excluded activity. 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 CEDF 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. (CA) The State should revise its procedures for consultations to address this weakness.* (F) 66 of 102 files reviewed provided no evidence of consideration of Unusual Circumstances in determining the Class of Action (COA) for a project. (o) It was stated in interviews that there are no assessments of unusual circumstances because DOT&PF is not funded to conduct preliminary analysis. It also was stated that the class of action decision is based only on project scope. *The MOU requires the State to make a determination regarding unusual circumstances. DOT&PF should consider and document their consideration of whether "unusual circumstances" apply to each CE approval. The cause may be a misunderstanding of existing flexibility in funding options. For example, if insufficient information is available prior to a federal funding agreement to determine if unusual circumstances or significant impacts may occur, the DOT&PF has the option of indicating this in the first request for ATP. This has been the practice for years prior to the assignment. (CA) DOT&PF must consider and document their consideration of whether "unusual circumstances" apply to each CE approval.*

Statewide Office Interviews	IV(D)(1)(a)	(o) Interviews indicated that Regional staff is relatively inexperienced with upwards of half of all NEPA practitioners having less than 3 years of experience. (F) It was stated that Regions are shopping for answers from FHWA area engineers. *The MOU requires the state to use appropriate managerial and technical expertise to perform functions required under the MOU. 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. (CA) The State should commit to increasing the competency of staff and implement general NEPA and specific Section 6004 training. The DOT&PF could institute a "core competency" program that requires training minimums for individuals involved in CE determinations related to 6004.*
Region Office Interviews	IV(D)(1)(b)	(F) Four State staff indicated in interviews a problem in running out of training funds and/or not enough Region staff to cover workload. One interviewee stated that the Region ran out of funding for necessary training to perform the 6004 assignment. (F) Three 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 interviewee also identified trouble with retention of qualified personnel. (F) One 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 steps in range. *The MOU requires the State to devote adequate financial and staff resources to carry out the responsibilities assumed. DOT&PF staffs have described issues in the adequacy of current financial resources and staff. The cause may be too many work priorities and inadequate commitment of resources. Another possible cause is an undervaluing of experience and expertise related to required environmental processes and the complex analyses needed to adequately perform them. The effect is undertrained staff, unbalanced workload among staff, excessive workload for some staff in performing assigned project processing and delay in project review and approval, as well as a constant turnover of staff and the need to continuously train new staff. This contributes to greater risk of inadequate NEPA decisions and possible delays in project development. (CA) The DOT&PF should assess the adequacy of staffing and workloads in each Region. The State should commit additional resources for training and develop a strategy to retain environmental staff. DOT&PF should describe the outcomes of their corrective actions related to this finding in their 15 month Monitoring Report.*

Region Office Interview	IV(D)(1)(c)	(F) 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. *The MOA requires the State to have capacity to perform the State's responsibilities. DOT&PF should have adequate and consistent capacity to implement the 6004 assignment. The cause may be convergence of the State bond program, stimulus projects, and the normal federal-aid program. The effect may be a lack of staff capabilities to demonstrate, in a consistent manner, the capacity to perform the State's responsibilities under the MOU and applicable federal law. (CA) The DOT&PF should assess the State's capacities in both Region and Statewide Offices to perform its responsibilities under the MOU and report the outcome of the assessment, and any corrective actions taken, in the 15 month Monitoring Report.*
Statewide Office Interviews	IV(D)(2)	(F) DOT&PF staff stated that they do not have good "coverage" of the air quality technical discipline. The cause is unknown. (o) A need for better Regional technical coverage of archaeology and architectural history was also noted. *DOT&PF should retain qualified technical staff or consultants for responsibilities assumed. The cause may be that in the past air quality and historic expertise has held a lower priority than some other areas of responsibility. The effect is that DOT&PF may not be able to perform project level conformity determinations or Section 106 responsibilities. (CA) The State should procure new staff or through consultant services, technical expertise to perform project level conformity determinations and historic assessment.*
Region Office Interviews	IV(D)(2)	(o) Statements about the length of time it takes to complete the Section 106 process ranged from slightly faster to taking substantially longer (than prior to the State's assumption of this responsibility). The Statewide office was noted as having qualified staff, but is viewed still a bottleneck. *DOT&PF should ensure it has adequate technical staff capacity to address any sources of delay. The cause is probably one or two overworked individuals. The effect is that project approvals may become delayed. (R) The State should analyze the efficiency of the current 106 procedures and take steps to reduce or eliminate sources of delay.*

Statewide Office and Region Office Interviews	IV(E)(1)	(o) Interviews confirmed that the REM is responsible for increased quality control. A Region Office interviewee stated that prior to the assignment that they sent a paragraph to FHWA to obtain a class of action determination. Now, they are providing more project and funding details and require a COA form and a response from the Statewide NEPA manager on the class of action decision (takes 3-5 days or more). (o) REMs noted that they are reviewing all drafts and that letters are finalized and sent out upon their approval. A document may go between the Statewide Office and Region Office staff level practitioners several times. This has substantially increased the REM workload. (o) This workflow and the new procedures have slowed the processing down. An interviewee stated there are new sets of eyes, new standards, and more scrutiny. *The approach to quality control is a source of project delay. A cause may be that prior to assignment FHWA was providing less quality control than the Statewide Office is under the MOU; documentation reviewed would support this theory. Another cause is the increased work associated with determining whether a project is assigned or not (e.g. background work to determine funding sources) that previously was not required. The effect is a perception by Region Office staff that unnecessary reviews and processes are slowing the approval process. (R) DOT&PF could develop training so that quality control is consistently implemented. DOT&PF should assess the adequacy and efficiency of the current quality control protocols to identify potential efficiencies.*
Statewide Office and Region Office Interviews	IV(E)(3)	(o) The Statewide Office has conducted training in support of the MOU capacity requirements, but has not kept complete records of that training. FHWA may not have been notified of all training. *DOT&PF needs to conduct sufficient training for the State to meet its obligations under the MOU and FHWA should be notified of all training. There have been several monitoring issues where training is a corrective action and Staff interviews indicated a need for training. The cause is unknown. The effect is possible errors and omissions in CE decision making and recordkeeping. (R) DOT&PF should conduct a training needs assessment and then implement necessary training as part of an overall training plan.*

Statewide Office and Region Office Interviews	IV(F)(3)	(o) Interviews indicated that there is uncertainty on what should be in the project files and how they should be structured. (o) One interviewee stated that there was a lot of scrambling during roll out and a lot of forms were changed. (o) There is no statewide tracking system. It was suggested that this is a particular weakness that is being handled differently between offices. It was observed that email creates a trackable string of documents, although that has increased the email burden. (o) It was suggested that Statewide centralize all 6004 instructions, procedures, MOUs and related forms in one place. *DOT&PF should have a single protocol for the required content and structure of its CE project files. The cause could be that the assignment is still new and the centralized decision making structure is unfamiliar. The effect is that each of the Regions structures their files somewhat differently and finding information on decision making can be difficult. (R) DOT&PF could impose a single site file structure that is shared among Region and Statewide Offices.*
Statewide Office and Region Office File Reviews	IV(F)(3,4)	(F) In one Region Office, 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. (F) In another Region Office 12 of 26 project files reviewed lacked sufficient documentation. (o) Overall, Statewide Office files contained a higher percentage of required documentation than Region Office files. *The MOU requires that the State maintain project and administrative records. DOT&PF should have complete records for approved projects. The cause could be that the assignment is still new and the centralized decision making structure is unfamiliar. The effect is that each of the Regions and some of the Statewide Offices structure their files somewhat differently and finding information on decision making can be difficult. (CA) The State must maintain adequate project records and ensure that they are available to the public. DOT&PF could impose a single site file structure that is shared among Region and Statewide Offices.*
Statewide Office and Region Office File Reviews	IV(B)(4)	(F) 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. (CA) DOT&PF should revise its procedures and forms to facilitate meeting the requirement.*

Statewide Office and Region Office Reviews	DOT&PF Environmental Manual Chapter 8, MOU Stipulation IV(B)(5)	(F) 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. (F) 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. (CA) The Statewide NEPA staff should develop and deliver training on the requirement for NEPA Re-evaluations and on Environmental Manual Chapter 8, Re-evaluations. The DOT&PF should revise these procedures to make clear that a Re-evaluation should address any errors or omissions in the previously approved document.*
Statewide Office and Region Office File Reviews	IV(A)(5)	(o) Files generally lacked evidence of scoping and coordination with other state and federal agencies. *The MOU requires that the State work with all appropriate Federal agencies concerning any applicable laws or regulations. The cause of this may be that many project files that were reviewed were for recently initiated projects (some which had not been completely through the NEPA process), as the older projects generally contained more documentation. It is noted that many of the project files reviewed were also for projects that were very minor in scope; this could be a contributing factor. Another cause may be that DOT&PF staff do not clearly understand what documents should be retained in the project file to build and maintain an adequate administrative record. (R) DOT&PF should set guidelines for file content and conduct training in maintaining project files and administrative records. As a part of the DOT&PF's Quality Assurance evaluation, the State should determine if appropriate scoping and coordination are taking place.*

Statewide Office and Region Office File Reviews	IV(A)	(F) 22 of 102 files did not provide sufficient evidence that the projects are in compliance with all federal laws and regulations. 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 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. (CA) Section 4(f) training should be delivered routinely and made a prerequisite for signing Categorical Exclusion Documentation Forms (CEDF). Section 106 training and NEPA training should provided routinely as an ongoing component of a training program or plan. It is recommended that training be developed for instruction in the procedures of the environmental manual chapters, as well as instruction on completing CEDFs. The training should go into depth and explain why certain information is required and requested in each resource category found in the CEDF and the ramifications of errors and omissions.*
Statewide Office and Region Office File Reviews	II(B), IV (C)	(o) Section 106 correspondence to tribal officials in files (including MOAs) and 106 templates do not mention that FHWA is responsible for formal government-to-government consultation. *The MOU does not allow the State to assume the Federal responsibility for tribal consultation. Documents sent to Tribes should clearly state FHWA's responsibility. The cause for this is likely that templates were adjusted to simply remove FHWA as a contact and sponsor and the effect is that no information is provided regarding FHWA's potential role and the right that a Native Alaskan tribe has to initiate formal government to government consultation. (R) The DOT&PF should propose an approach to providing notification to federally recognized tribes regarding DOT&PF and FHWA roles in tribal consultation.*

Successful Practices

DOT&PF has taken numerous actions that enable the State to assume Federal responsibilities defined in the MOU, but that also have improved the quality and occasionally the timeliness of the environmental analyses and CE approval processes. We recognize that these actions come about through individual initiative and creativity as well as corporate necessity. Six items stand out as worthy of special mention.

1) Prior to the execution of the MOU, DOT&PF followed through on its commitment to increase its environmental staff by hiring individuals who meet the Secretary of the Interior's Qualifications Standards for historic preservation professionals. This was a necessary action to fulfill a DOT&PF commitment in the MOU in order to assume the Federal responsibilities for compliance with Section 106 of the National Historic Preservation Act. Through interviews and reviewing project documentation, it is evident that both the new cultural resources review process established by the Statewide Office and the professionalism the newly hired individuals bring to DOT&PF, have improved the quality and often the timeliness in the Section 106 process. The value of this commitment of professionalism was mentioned in several Regional Office interviews as well as a desire to increase the number of qualified individuals so that at least one resides in each Regional Office.

2) Stipulation IV(E) requires the State to develop and implement quality control procedures. These procedures check for errors and omissions in project determinations, environmental analysis, and project file documentation. Observations from Region and Statewide Office interviews and file reviews clearly document the effectiveness of these procedures as well as the implementation of corrective action as needed (with the exception of PCEs, as noted above).

3) As a necessary action in order to assume the Federal responsibilities under 6004, the State committed to increase its Statewide Office environmental staff. DOT&PF fulfilled that commitment prior to executing the MOU by establishing and filling four positions known as NEPA Managers for 6004. The responsibility for quality control on a daily basis falls to these NEPA Managers. Project records in all Region Offices clearly demonstrate that the NEPA Managers are providing commendable oversight and quality control. An independent measure of their effectiveness is the frequency their presence in the CE processing procedures was mentioned (and at times complained about) in interviews. We recognize the critical role they have played in the implementation and stewardship of the responsibilities assumed by the DOT&PF.

4) Innovation and creative initiative were demonstrated in the Northern Region Office in their development of several tools and protocols to facilitate quality control and file management. The project development process can be one where a "parent" project initially defined in planning may become broken down into several, yet related "offspring" projects. It is often difficult to track the relations between parent and offspring projects regarding project scope and possible impacts. Project files in the Northern Region contained detailed information and were organized such that project tracking

regarding parent and offspring projects made monitoring review easy to follow. Indeed, our review of Northern Region files found them to be very detailed and orderly, with records arranged chronologically. Northern Region project files were notably the most complete among the Region offices. We partly attribute the condition of these files to an innovation of the Northern Region Office, the presence of a project file checklist that lists required elements for the file and identifies dates of completion. We found this project file checklist to be extremely useful in our review of project records and recommend extending this idea to every project file.

5) Perhaps the most important decision the State can make regarding the environmental responsibilities assigned in the MOU is the class of action determination. This is the decision that determines whether a proposed project is assignable under the MOU provisions or not. The basis of this decision must be in current law, regulation, policy and guidance as specified in Stipulation IV(A). Failure to make these decisions appropriately may be grounds to terminate the MOU or assigned responsibilities in the MOU. The State has recognized the importance of this decision by developing review procedures that require concurrence by the NEPA Manager at the Statewide Office. Our review of 102 project files found evidence of 97 with written concurrence. This observation demonstrates that DOT&PF have followed this procedure well and reflects a high and laudable consistency in decision making.

6) Next in importance of the decision making responsibilities assigned, is the decision and follow through by DOT&PF staff when a project is not assignable under the MOU. Stipulation IV(C) defines procedures for documenting projects not assigned under the MOU and for notifying FHWA. The intent of these procedures is to allow for the timely processing of CE projects not assignable and for recordkeeping regarding the entity responsible and liable for environmental decision making. Our review of State project records found twelve projects that were determined to not meet the criteria to be assigned under the MOU. Ten of these project files contained the appropriate documentation specified in Stipulation IV(C)(1) and evidence of notification to the FHWA Division Office. We recognize the challenge of appropriately identifying the class of action for proposed projects and the screening of project scope and possible project impacts that is necessary to determine whether it is assignable or not. Records for projects determined by the State as not assignable contained documentation that supported those determinations and our review agreed with the determinations.

We believe individual initiative and creativity is often the mother of successful practices and we urge DOT&PF to continue to encourage initiative and creativity and to strive toward continuous improvement.

Conclusion

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.

Most CE determinations reviewed appeared appropriate; however, documentation was lacking in details often required by the MOU. In one Region office there was inadequate documentation for most assigned projects to assess compliance with applicable laws, regulations, and provisions of the MOU. Out of the 66 projects reviewed statewide, there were twelve projects that lacked adequate documentation to determine compliance with applicable laws and regulations.

B. Review DOT&PF's process for the identification and documentation of CE determinations.

There was evidence of confusion, debate, and disagreement among DOT&PF offices related to the identification of CE determinations for projects that include realignments.

The DOT&PF instituted a process for determining the Class of Action (CoA) for a project that usually includes the completion of a CoA form by the Region offices and concurrence by the Statewide Office. This concurrence process appears to work very well in providing consistent identification in CE determinations across the state. However, project documentation reviewed for this report, at times, lacked evidence of (1) consideration of whether unusual circumstances might occur and (2) consideration of environmental impacts, both required by 23 CFR 771.117 and the MOU.

CEs for projects that required development of a Categorical Exclusion Documentation Form usually provided sufficient support for the CE determination; however, CE determinations for "c" list CEs usually lacked adequate documentation to support the CE determination.

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.

Our assessment of the State's provision of financial and staff resources is that it is provisionally adequate, given that the demands of this assignment are still becoming known and the State is still implementing new procedures. This is based on interviews with State management personnel, our knowledge of preparations the State made prior to executing the MOU, and our general review of project records. We acknowledge and applaud the fact that the State added

new staff whose responsibilities and requirements for expertise were defined by new responsibilities assumed by the MOU. Statements made by State management indicate, for the most part, that the State considers the current capacity of their staff to be adequate except for the rush of ARRA projects. Also, while this review did not seek to compare State expenditures during this assignment and before, information from interviews suggests that the State's provision of training resources skirts the limits of adequacy. Given that many of this report's findings can be traced to staff ignorance of the State's new responsibilities and procedures, and that many corrective actions suggest increased staff training, the State should consider allocation of resources specifically for training its staff. The team considers the capacity of staff to be marginally adequate, in part because of information gained from SER interviews.

D. Review the scope, methodology, and the results of DOT&PF's self-assessment of the CE Assignment Program.

DOT&PF's self-assessment is not due until the conclusion of the 15th month of the MOU; since this review took place during the sixth month of the MOU, it did not include an evaluation of the report. The State indicated in one interview that Statewide staff are waiting to examine the outcomes of FHWA's Compliance Review Report before designing the scope and methodology for their self-assessment.

E. Review DOT&PF's performance monitoring activities to track time and cost savings attributable to the CE Assignment Program.

It is too soon to independently evaluate whether this assignment to the State has resulted in time and cost savings. Perhaps the largest obstacle to this assessment is that the State has not yet developed time and cost measures for all CE projects. This means that there was no baseline for typical time and cost for CE project evaluation and approval to compare with project review and approval with the State assigned these responsibilities. However, interviews conducted with staff in the Northern Region Office revealed that that office has been tracking the time (from ATP to CE approval) for CE project for a period of two years. This Compliance Review Report recommends corrective actions to implement the Northern Region's project tracking approach, statewide. Further, the state should, as part of its self-monitoring efforts, utilize the Northern Region's data base along with what information exists from other Region Offices, to establish a baseline for the time and costs associated with CE project assessment and approval. And, to the extent possible, the State needs to compare its performance in CE project review and approval with this baseline information.

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.

DOT&PF's lines of communication between Headquarters' offices and the Region offices appear to be very effective in disseminating new national policies and environmental guidance.

G. Verify the accuracy of the quarterly reports submitted to the FHWA.

The quarterly reports submitted to FHWA to date have contained inaccuracies, errors, and omissions and/or were not submitted in a timely manner. We believe the reports to be incomplete because of inconsistent procedures for tracking the evaluation and approval of CE projects, statewide. This problem should become resolved once the State implements a uniform procedure and project data base statewide.

H. Review the adequacy of the CE determinations and supporting technical studies associated with ARRA projects.

Of the 66 projects reviewed, 8 were ARRA funded projects assigned under the MOU. 5 of these lacked sufficient evidence in either the Region Office files, the Statewide Office files, or both to determine compliance with all federal laws and regulations.

In their 2010 Risk Assessment, the FHWA Alaska Division Office determined that the 6004 Assignment was one of the Division's Top Ten Risks. Based on this review, FHWA believes the area remains a high risk and continued monitoring should be undertaken.

Appendices

Excel Spreadsheet: "Master File Review Spreadsheet", following this page.

Master File Review Spreadsheet

DOT&PF Project #	Evidence of consultations b/w REM & Statewide		UC considered? (IVB6)		PCE Identified (manual - PCE agreement)		PCE concurrence		CoA Concurrence by Statewide		106 Finding appropriate?		Compliance with all Fed laws regs (IVA)		State to work with Agencies (IVA5)		Identify and review effects (IVB1)		Prep/review doc determine CE (IVB2)		Sig, title, printed name (IVB4)		Included CE Finding from MOU (IVB5)		Activity id'd (IVB6)		Document exclusion findings (IVC1)		Notify FHWA for excluded project (IVC2)		Regular quality control (IVE1&E4)		Proper project and admin records (IVF3)	
	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW
50946		O	F	F													F		F			F			F							O		F
50994																												O		O		O		
51170																											O	O	F	F				
51331			F	F																														
51577											F	F	F	F									F	F	F	F						O	F	F
51854	F		F	F	F	F			F								F	F					F	F									F	F
51918	F		F	F	F	F					F	F									F	F									F	O	F	
51922			F	F							F	F	F	F																				
51924			F	F	F	F					F	F	F	F																				
51927					F	F	F				F	F	F	F																			F	O
51945			F	F	F	F													F				F	F	F	F							F	
51970			F	F		F																	F	F		F								
51987					F	F					F	F	F	F									F	F	F	F								
52024																												O		O			F	F
52110					F	F					F	F	F	F									F	F	F	F								
52128																												O		O		O		
52215			F	F	F	F											F	F	F	F			F	F	F	F							F	F
52223			F	F	F	F											F	F	F	F			F	F	F	F								F
52391	F		F	F	F	F			F								F	F					F	F									F	
52393	F		F	F	F	F											F	F					F	F									F	
52417			F	F	F	F											F	F					F	F									F	
52425	F		F	F	F	F											F	F					F	F									F	F
53943			F	F																			F	F	F	F					F	O	F	F
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58115																											O	O		O				
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60916			O																															
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62067													F	F																	F			F
62166																							F	F										
62196																											F	O		O			F	
62628													F																				F	F
62638			F	F																			F	F							F	F	F	
63146			F	F	F	F					F	F	F	F									F	F	F	F					F	F	F	

DOT&PF Project #	Evidence of consultations b/w REM & Statewide		UC considered? (IVB6)		PCE Identified (manual - PCE agreement)		PCE concurrence		CoA Concurrence by Statewide		106 Finding appropriate?		Compliance with all Fed laws regs (IVA)		State to work with Agencies (IVA5)		Identify and review effects (IVB1)		Prep/review doc determine CE (IVB2)		Sig, title, printed name (IVB4)		Included CE Finding from MOU (IVB5)		Activity id'd (IVB6)		Document exclusion findings (IVC1)		Notify FHWA for excluded project (IVC2)		Regular quality control (IVE1&E4)		Proper project and admin records (IVF3)	
	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW	Region	SW
63151			F	F							F	F	F	F																				
63282																					F											O		
63360			F	F	F	F															F											O		
63362			F	F																	F													
63364					F	F															F													
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63459			F	F																	F												F	
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76389			F	F	F	F	F	F									F	F					F	F										
76717			F	F	F	F																												
76886																																O		
67443	F		F		F		F		F				F		F						F						F				F		F	
68216																																		
68345			F	F																							F	O	F	O			F	
68602																											O		O					
68678			F	F	F	F		F									F	F															F	
68707				F	F	F																	F	F	F	F							F	
68750																															F		F	
69192			F	F	F	F	F	F																									F	
69230			F	F	F	F	F		F				F	F							F										F	F	F	
69335									F																								F	
69337																																	F	

Key

REM Regional Environmental Mgr
UC Unusual Circumstances
PCE Programmatic Categorical Exclusion
CoA Class of Action
CE Categorical Exclusion

Approved: _____ 7/22/10

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