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23 U.S.C. § 326 Monitoring Report



A Review of the Maine Department of Transportation's Compliance under the Memorandum of Understanding for State Assumption of Responsibility for Categorical Exclusions (23 U.S.C. 326)

March 12, 2026

FINAL REPORT

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EXECUTIVE SUMMARY

This review satisfies the monitoring requirement established in 23 U.S.C. 326(c)(5) and evaluates the Maine Department of Transportation's (MaineDOT) performance in carrying out the procedures established for Categorical Exclusion (CE) assignment. This report documents MaineDOT's compliance with the 326 Memorandum of Understanding (MOU) and provides findings, observations, and successful practices. Based on this review, MaineDOT is substantially in compliance with the terms of the MOU, but the review identified specific areas in need of enhancement which will be reevaluated during the next monitoring review.

The review was conducted by a six-person CE Monitoring Review Team (Team) comprised of Federal Highway Administration (FHWA) Office of Project Development & Environmental Review (HEPE) and Maine Division staff.

The Team began project file reviews on June 17, 2025 and conducted interviews September 8-9, 2025. The Team focused this review on the performance elements of the MOU.

The Team evaluated the six State Performance Requirements listed in Section IV of the MOU:

1. Compliance with governing laws, regulations, and the CE MOU.
2. Processing projects assigned under the MOU: State identification, documentation, and review of effects.
3. Excluded projects: determination and documentation.
4. Required State resources, qualifications, expertise, standards, and training.
5. State quality control.
6. MOU performance monitoring and quality assurance.

The Team conducted interviews with multiple MaineDOT Environmental Office employees, including the Director; two Senior Environmental Managers; Team Leaders; Historic Coordinator; Environmental Specialists; Hydrologist; Biologist; and Region 1 Coordinator.

Based on the Team's evaluation, FHWA noted several successful practices, including:

- Project management
- Personnel resources
- Environmental commitment implementation
- Environmental Office Training program and tracking expansion

FHWA recommends that MaineDOT consider several steps to enhance their program, including these areas:

- CE Guidance updates
- Documentation consistency
- ProjEx transparency and access

- Project file guidance updates
- Consistent use of documentation acronyms/definitions
- Section 4(f) guidance updates
- Local public agency (LPA) process clarification
- Increased basic National Environmental Policy Act (NEPA) Assignment training for other MaineDOT divisions/bureaus
- ProjEx environmental commitment clarity

FHWA recognizes MaineDOT for implementing improvements to their program based on their self-assessment and notes that MaineDOT is currently addressing the observations and recommendations identified in this report.

There was a closeout meeting on September 12, 2025, attended by the Team, FHWA Maine Division Administrator, MaineDOT Environmental Office staff, and the MaineDOT Deputy Commissioner. MaineDOT was provided a copy of the draft report on February 13, 2026, for their review and comment. MaineDOT responded via letter dated March 11, 2026 (see Appendix C). FHWA received the letter and concurred with MaineDOT's comment-response. This report is classified as final as of March 12, 2026.

BACKGROUND

On October 9, 2024, MaineDOT assumed the Secretary of Transportation's (Secretary) authorities and responsibilities pursuant to 23 U.S.C. 326. With execution of the MOU, MaineDOT assumed FHWA's National Environmental Policy Act (NEPA) responsibilities for determining whether a proposed action is within a category of action that has been designated as a CE, as identified below, and meets the definition of a CE in 23 CFR 771.117:

- 23 CFR 771.117(c),
- 23 CFR 771.117(d), and
- any activities added through FHWA rulemaking to those already listed 23 CFR 771.117(c) and (d) after the execution of the MOU.

The term of the MOU is for three years after which time it can be renewed. The responsibilities only apply to projects for which MaineDOT is the direct recipient of Federal-aid highway program funding or is the project sponsor or co-sponsor for a project requiring approval by the FHWA Maine Division. MaineDOT has the responsibility for processing the CEs designated above as well as any required reevaluations of CEs under 23 CFR 771.129(c).

In addition, MaineDOT has assumed the FHWA authorities and responsibilities for coordination and consultation with Federal and State resource agencies for all associated Federal environmental laws, as stipulated under Section II(A) of the MOU for the CE determinations.

MOU stipulation IV(F)(5) establishes that FHWA shall periodically conduct a review of the State's performance under the MOU. This is the first monitoring review and covers the period between October 9, 2024 to April 30, 2025. This report documents FHWA's observations of MaineDOT's CE Assignment program.

PURPOSE AND OBJECTIVE

The purpose of this monitoring review was to satisfy the requirement of 23 U.S.C. 326 for monitoring MaineDOT's compliance with the provisions of the MOU. This review included consideration of the technical competency and organization of the State, as well as the State's performance of its CE processing functions. Performance considerations included review of the quality and consistency of the State's project determinations, adequacy and capability of the resources applied by the State, and the quality and consistency of the State's administration of its responsibilities under the MOU (per Stipulation IV(F)).

In satisfying the monitoring requirements of 23 U.S.C. 326, the Team evaluated the six State Performance Requirements listed in Section IV of the MOU:

1. Compliance with governing laws, regulations, and the CE MOU
2. Processing projects assigned under the MOU: State identification, documentation, and review of effects
3. Excluded projects: determination and documentation
4. Required State resources, qualifications, expertise, standards, and training
5. State quality control
6. MOU performance monitoring and quality assurance

The following measures were considered in support of MaineDOT's satisfying the requirements in Section IV of the MOU:

1. CE decision-making procedures comply with NEPA, 23 CFR 771.117, and the CE MOU.
2. The State has adequately met the provision of financial resources and staffing and has practiced quality control sufficient to fulfill the requirements of the CE MOU.
3. The State has complied with other Federal and State legal requirements.
4. The State has complied with recordkeeping requirements.

To review MaineDOT's performance in meeting its responsibilities under the MOU, the Team conducted the following activities:

- Verified that CE determinations and documentation are appropriate, and that they comply with the applicable laws, regulations, and the provisions of the CE MOU.
- Reviewed and checked MaineDOT's process for the identification and documentation of CE determinations, including supporting technical studies.
- Reviewed the results of MaineDOT's self-assessment report to identify any outstanding issues.

SCOPE AND METHODOLOGY

This monitoring review consisted of reviewing MaineDOT's manuals and procedures, CE project files, MaineDOT Self-Assessment Report 1 (see Appendix A), and staff interviews.

Methodology:

File Review: MaineDOT provided the list of projects that served as the basis for the files reviewed. The Team requested and reviewed 28 CE project files. This sample was 20% of the total CE approvals completed during the review period and projects were selected randomly to review a variety of CE classification types (141 CE decisions reported from October 9, 2024 to April 30, 2025).

The project file review was conducted in two parts. The first part was a review of MaineDOT manuals/guidance to identify established processes and procedures. The second part considered the supporting documentation in the project file as it related to MaineDOT's manuals.

Interviews: The Team interviewed staff from MaineDOT Environmental Office - Director; two Senior Environmental Managers; Team Leaders; Historic Coordinator; Environmental Specialists; Hydrologist; Biologist; and Region 1 Coordinator. (see Appendix B).

Monitoring review summaries are organized per the following:

Finding: A statement pertaining to compliance with a regulation, statute, FHWA guidance, policy, or procedures, MaineDOT procedures, or the MOU.

Observation: Describes issues or practices that MaineDOT may consider as areas to improve.

Successful Practice: Summarizes practices that the team believes are successful, so that MaineDOT could consider continuing or expanding those programs in the future.

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

FINDINGS

A. Compliance with governing laws, regulations, and the MOU

No findings.

B. Processing projects assigned under the MOU: State identification, documentation, and review of effects

No findings.

C. Excluded projects: determination and documentation

No findings.

D. Required State resources, qualifications, expertise, standards, and training

No findings.

E. State quality control

No findings.

F. MOU performance monitoring and quality assurance

No findings.

OBSERVATIONS

A. Compliance with governing laws, regulations, and the MOU

A.1 Monitoring Question\File Subject: Section 4(f) compliance

Observation: Section 4(f) procedural improvements needed.

The Review Team observed a lack of documentation in the project files for projects processed with Section 4(f) “No Property” or “No Use” determinations. There were also some inconsistent responses provided during staff interviews as to what it meant when a NEPA/CE Certification Report indicated “No Property” versus “No Use”. However, the Review Team was informed that MaineDOT is aware of the confusion and is actively working to clarify the terminology associated with these Section 4(f) determinations. MaineDOT should continue to evaluate and update Appendix K of the MaineDOT NEPA Categorical Exclusion Guidance (CE Guidance) to clearly define what these determinations mean; to clarify whether a Section 4(f) property is identified within the study area or not; and if a Section 4(f) property is identified whether an exception under 23 CFR 774.13 applies. Appendix K should also be reviewed and updated to clarify what information should be included in the project’s Coordination and Documentation (CPD) e-file to document the Section 4(f) assessments completed to support the determinations and demonstrate compliance with Section 4(f) regulations (i.e., email communications internally and/or with the officials with jurisdiction, assessment summary or form, etc.).

When reviewing Section 4(f) *de minimis* findings it was difficult to determine which MaineDOT staff member approved the finding or how the approval was documented. For instance, various project files contained approvals completed by email, or the document itself was signed, or there was no documentation in the file only a date entered in ProjEx. MaineDOT should review Appendix K of the CE Guidance to ensure it is clear which staff have the authority to approve Section 4(f) determinations and how those reviews or approvals should be documented.

A.2. Monitoring Question\File Subject: Section 106 compliance

Observation: Lack of Section 106 documentation to support the determinations made.

Stipulation VII.B.3 of Maine’s Section 106 Programmatic Agreement (PA) states that MaineDOT will “*document its finding that the action is exempt from further review and maintain that documentation in its project files*”, but the CEs reviewed that were processed with the Section 106 PA Appendix A (Exempt) determination contained no documentation in the project files related to the application or findings. When applying the PA Appendix A to projects, emails or other documentation providing evidence of the assessment completed by MaineDOT should be included in the project files. MaineDOT could consider adding a check box to indicate supporting documentation is in the file and/or use of a standard form to document the assessment/finding for the file.

The review of two CEs processed as Section 106 PA Exempt projects appeared to be miscoded, as they were coded as PA-B. This was confusing for the Review Team as Appendix B of the PA includes a list of definitions. Projects reviewed were likely intended to be coded as PA Appendix A, Subcategory B. An explanation in CE Guidance Appendix J regarding the coding to be used in ProjEx to document the application of the PA Appendix A (Exempt) is recommended. Also, consider modifying the format of Appendix A when the PA is renewed to define which subcategory of Appendix A applies more clearly to a project. Currently, exempt projects are to be coded as either Appendix A.A, A.B, A.C, etc. Using a format that starts with letter followed by a number may reduce confusion in the future.

A.3. Monitoring Question\File Subject: CE Reevaluation compliance

Observation: Improvements needed for CE reevaluation procedure and documentation requirements.

The MaineDOT CE Guidance Section 15.0. describes the procedure, format, and documentation requirements for CE reevaluations. As mentioned in the guidance, all CE reevaluation documentation will be saved to the project file and ProjEx, however, the formal NEPA certification of a re-evaluation in ProjEx was not discussed. When a CE reevaluation is completed by MaineDOT, there should minimally be a statement of completion reflected in the NEPA certification page of ProjEx. This could be done by adding a reevaluation tab in ProjEx for each re-evaluation without an overwrite of the previous decisions or approvals. The NEPA certification page should reflect each formal re-evaluation and generate a new certification date. This new date will be a supplementary date to be entered in Finance Management Information System (FMIS) including checking a re-evaluation box, in addition to the original formal NEPA certification date. When this happens, there will be two dates of NEPA Decisions/Approval shown in FMIS: (1) Initial Formal NEPA certification date and (2) Re-evaluation NEPA certification date. Note the information in FMIS includes NEPA Class of Action as well.

A.4. Monitoring Question\File Subject: CE Assignment MOU disclosure language compliance

Observation: The disclosure language used in NEPA documentation does not match the language in the MOU.

Currently the language MaineDOT is utilizing in NEPA documents does not match the language as stated and prescribed under the CE Assignment MOU Section IV. State Performance Requirements; subpart B. Processing projects assigned under the MOU: State identification, documentation, and review of effects; subparts 6 & 7 determination statements. In place of the MOU disclosure language, the following language was used in the CE reports generated by ProjEx:

Per 23 CFR 771.117, and based on an examination of the supporting information, the action:

- Does not individually or cumulatively have a significant environmental effect on the environment as defined by NEPA and is excluded

from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and

- Has considered unusual circumstances pursuant to 23 CFR 771.117 (b).

The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to 23 U.S.C. § 326 and a Memorandum of Understanding executed between FHWA and the State.

MaineDOT should add the MOU disclosure language from the MOU to its CE Guidance, ProjEx Database, CE certification document for “c” and “d” list CEs, and any other documents being transmitted to outside entities to match the disclosure language in the MOU verbatim.

B. Processing projects assigned under the MOU: State identification, documentation, and review of effects

B.1. Monitoring Question\File Subject: CE scope identification and documentation

Observation: CE format lacks specific project location, limits, and scope of work.

Per 23 CFR 771.111(f)(1) and (2), any action evaluated under NEPA as a CE must connect logical termini and have independent utility. While the MaineDOT CE Guidance acknowledges the need to identify these as a part of their NEPA process, the NEPA Certification CE Reports (the MaineDOT CE) do not include specifically defined project scopes of work, location nor limits of the action being environmentally cleared. This information should be described in detail in the CE as it defines the action being taken and the footprint of the area that was cleared through the NEPA study. FHWA acknowledges that there is an issue with character limits in MaineDOT’s ProjEx system used to document CE decisions, but if that NEPA Certification CE Report serves as the CE decision document, it needs to clearly define the project action in detail.

Another consideration is the use of MaineDOT design documents that were frequently located in the project files and used to inform the project NEPA review. The Preliminary Design Report and the Project Information for Environmental Processing document contain specific project location, limits, and scopes of work. FHWA recommends MaineDOT consider attaching and using these documents to supplement the CE decision document as they are already being implemented as part of the process.

B.2. Monitoring Question\File Subject: Easement documentation

Observation: Lack of clarity in process documentation and ProjEx system coding for right-of-way versus easement.

The ProjEx system is a well-designed tool and seems to be effective in MaineDOT’s use for CE Assignment project management and documentation. FHWA identified some improvements that MaineDOT should consider for increased clarity.

“Right-of-way” (ROW) and “easement” are distinct property right terminology defined per 23 CFR 710.105. The Team identified a few of the projects reviewed had several locations where temporary and/or permanent property rights were required. Currently, the MaineDOT NEPA Certification Report includes a ROW line item, and most were checked as a “No”, although an easement was needed for the project. For accuracy and clarity, adding an “easement required” option to ProjEx is recommended. Additionally, the need for any property easement should be documented in the project Preliminary Design Report (PDR).

Additionally, it appears the NEPA Certification Report Assessments completed for the Section 4(f) and Section 6(f) resources are used to ascertain any ROW impacts for ROW easements. It is unclear whether the need for any ROW easements/encroachments in general should be better highlighted within the NEPA Certification Report (see A.1. Section 4(f) Observations).

B.3. Monitoring Question\File Subject: Public involvement procedures

Observation: Greater clarity needed in public involvement procedures and documentation.

MaineDOT’s NEPA Public Involvement Plan details three different levels of public involvement for CE projects but does not clearly define when to implement each level. Within ProjEx, MaineDOT documents whether public involvement was completed, but does not identify which level of public involvement was applied to a project. MaineDOT should clarify the level of public involvement that should be completed for CE projects and create corresponding coding in ProjEx and project file documentation requirements for that identified level. Also, the CPD filing system used by MaineDOT contains no dedicated folder for public involvement documents. MaineDOT should consider adding a standard public involvement folder for documentation, including public meeting information and any comments received, if a meeting was held in accordance with its updated guidance.

Additionally, the Team identified that MaineDOT overall project level public involvement is handled by the project manager, which appears to be different from NEPA level public involvement. It is unclear how the level of public involvement is determined or documented on a project-by-project basis and which projects might require some level of outreach and related documentation (emails or letters) during the NEPA phase. MaineDOT should clarify when the Environmental Office is involved, and what the difference is between State public involvement and NEPA public involvement in compliance with 23 CFR 771.111(h)(1)(2).

B.4. Monitoring Question\File Subject: Project documentation

Observation: Project file documentation requirements.

The current MaineDOT ProjEx system is difficult for FHWA to review as part of the monitoring review effort. The Team does not have access to ProjEx and the “documents” generated by the system in a downloadable format are incomplete. This makes it difficult for FHWA to complete a thorough review of the approved CE document and the supporting documented decisions. In addition, many of the project files reviewed by FHWA had empty folders and it was unclear if they should be empty or if a negative declaration document should be contained within. An

example would be the Damariscotta project (c list – 025337) where a Section 4(f) no effect and a Section 106 no use determination was made according to ProjEx, but there was no documentation in the folder on how the determination was made. A negative declaration document or some other evidence of the analysis completed/decision made should have been included in the folder. MaineDOT should consider adding a step at the end of the certification process where MaineDOT flags or deletes the empty folders in project files. FHWA acknowledges that MaineDOT is continuously monitoring its filing and ProjEx database and makes corrective changes when issues are identified. MaineDOT should consider adding a process for removing empty folders or including a negative declaration document contained within the record.

C. Excluded projects: determination and documentation

No observations.

D. Required State resources, qualifications, expertise, standards, and training

No observations.

E. State quality control

E.1. Monitoring Question\File Subject: Delegation of authority identification and documentation

Observation: Lack of clarity in delegation of authority to approve decision documents and how approval is documented.

The MaineDOT CE Guidance does not identify all approvals completed as part of the NEPA process and who in MaineDOT's Environmental Office has the authority to make those decisions. FHWA recommends further refinement and expansion of the NEPA CE Matrix found in the CE Guidance Appendix V and under CE Guidance on pages 18-19 to include one overall matrix of responsibilities for all decisions/authorities, along with a corresponding detailed narrative describing who approves CEs and the various supporting actions. MaineDOT could consider using the Table on page 9 of the Section 4(f) guidance in Appendix K as a template and create a similar table to document decision-making and approval points completed in other resource areas.

Additionally, clarification is needed from MaineDOT to confirm that the certification name in the ProjEx database is equivalent to the formal approval signature for a CE approval. The ProjEx system does not currently appear to identify the NEPA certification name as an official electronic signature and date. MaineDOT could consider using an electronic signature date and stamp or similar process on the CE checklist approval that mirrors the approvals made in the ProjEx database or update the ProjEx Section 3: NEPA certification language to indicate it is an electronic signature. Each updated approval or certification (if required) should be captured, and certifications not overwritten but maintained as updated clearances occur.

E.2. Monitoring Question\File Subject: Quality Assurance and Quality Control Procedures

Observation: Incomplete Quality Assurance (QA) and Quality Control (QC) process.

While MaineDOT appears to follow a consistent QA/QC process, there does not appear to be a true QC check of the CE approval prior to certification. The team leaders are responsible for completing both the CE approval and the QC certification as documented by one signature and date for both the CE approval and QC check. MaineDOT should update the QC process to include a different team leader or other qualified Environmental Office staff member to complete the QC prior to certification. There should be two separate and distinct signatures and dates that correlate to the CE approval and the QC approval. FHWA also recommends the creation of new tabs for QC and QA sign-off in the ProjEx database.

F. MOU performance monitoring and quality assurance

No observations.

SUCCESSFUL PRACTICES

Successful practices noted during this monitoring review include:

- 1. Project management:** The Environmental Office staff use the PDR and early project management meetings to review the initial project design to provide advice or direction on project scope or design changes that minimize the impacts and level of consultation/process needed. The collaboration and willingness of the MaineDOT project managers to minimize impact through changes in design early in the process is commendable.
- 2. Personnel resources:** There appear to be no resource limitations as it relates to full staffing within the MaineDOT Environmental Office.
- 3. Environmental commitment implementation:** All environmental commitments for CEs are listed in ProjEx. MaineDOT assigns each environmental commitment or mitigation to a specific staff member, or “commitment monitor”, to track through the completion of the commitment. Team leaders check the special provisions and permit to make sure commitments are captured in the contract package before project bids are received. MaineDOT has staff dedicated to monitor projects in the field and ensure compliance with commitments made in NEPA process. This includes three Environmental Office staff members and five regional managers. The regional environmental coordinators and environmental construction compliance staff handle commitment communication with the five MaineDOT regions and project managers.
- 4. Training:** MaineDOT identified the effort underway to update the training and complete a “restart” in 2026 to document all training for NEPA Assignment and supporting

technical area compliance. A filing system is being developed to track training under both the 326 and 327 NEPA Assignment programs. Training modules are being developed to cover all future training needs. In addition, MaineDOT Environmental staff use Microsoft Teams to ask questions and obtain guidance from each other. This, plus regular office meetings and discussions, help keep staff up to speed on any new guidance, maintain subject matter expertise, and increase implementation consistency. Plus, MaineDOT environmental staff participate in American Association of State Highway and Transportation Officials (AASHTO) subcommittees and serve on National Cooperative Highway Research Program (NCHRP) panels to maintain competency and knowledge sharing.

RECOMMENDATIONS

FHWA recommends that MaineDOT consider several steps to enhance their program based on the findings and observations identified in this report, including:

- Update the CE Guidance to provide direction and/or information on how to make the CE category determination and document the 23 CFR 771.117(e) criteria in detail when considering use of 23 CFR 771.117(c)(26), (27) or (28), as well as implementing any necessary training.
- Consider updating the CE Guidance, Appendix T “NEPA Filing and Documentation Guidance” to provide a summary/description of what should/might be filed in any of the CPD e-file “template” Folders. Examples include the Compliance or Correspondence folders which were empty in every project reviewed.
- Implement periodic review and updates to the guidance and procedures on coordination and consultation with Federal agencies may be helpful, especially if these processes change or if there is staff turnover.
- Continue to enhance processes for maintaining project files/documentation –
 - Continue process to facilitate complete FHWA Review Team access to or transparency of the electronic files during monitoring reviews;
 - Enhance CE documentation to improve property specificity and scope information;
 - Continue to address and improve on filing to ensure completeness and provide in a downloadable format;
 - Improve documentation to show/justify decisionmaking;
 - Ensure that NEPA documents contain proper NEPA disclosure language; and
 - Ensure documentation has required signatures.
- Continue to identify processes to ensure consistency in documentation and implementation of quality measures.
- Define all the documents used in the NEPA process and found in the project files in MaineDOT guidance. MaineDOT should consider the need to periodically update/expand the list of acronyms/definitions to include in the NEPA CE Guidance

document. This might include adding acronyms for more commonly used Maine-specific acronyms in addition to Federal acronyms (such as Maine state resource agencies, NEPA Checklist versus NEPA Certification Report, Project Information for Environmental Processing document, consolidated PIS, PIC, PDR, etc.).

- Include the decision/determination email communication in the project file.
- Consider updating filing nomenclature to include identifiers in the file name or some other mechanism to clarify the record. Include emails in the folders documenting consultation and/or concurrence between MaineDOT and other Maine state resource agency staff. Emails should contain agency or title information for the agency representative within the emails (email signature/title) or consider identifying agency in email nomenclature.
- Update the Section 4(f) Guidance –
 - Require documentation for “No Use” determinations when Section 4(f) resources are within or adjacent to the project area using, for example, a Section 4(f) “No Use” form.
 - Need to distinguish situations such as when no Section 4(f) property is present versus when a property is present but there is no use.
 - Clarify which staff has the authority to approve each type of Section 4(f) determination.
- Update MaineDOT’s CE Guidance to clearly identify the role of the LPA versus the MaineDOT environmental staff for NEPA compliance. The update should document the current MaineDOT internal process for an LPA project when documentation is submitted by the LPA to the MaineDOT Environmental Office. If the NEPA certification is processed internally in the same manner as a MaineDOT CE, the guidance could reference back to Section 14.0 Categorical Exclusion Process in Section 16.0 Locally Administered Projects of the manual.
- Provide training to all MaineDOT staff responsible for and involved in any aspect of assignment activities and project decision-making on the overview/basic NEPA Assignment Program. The training should be expanded for any other MaineDOT divisions that have a role or responsibility in informing or implementing the NEPA decisions assigned under the MOU like the project managers and finance division employees involved with FHWA authorizations.
- Improve the coding processes to reduce chances of miscoding errors and improve project record clarity –
 - Accurately reflect the status of CE evaluations;
 - Accurately reflect whether ROW/easement requirements and/or impacts have been analyzed); and
 - When “N/A” is checked in ProjEx for commitments, as there were instances when it was checked but mitigation was identified and committed to during the study process. If the NEPA report is the “CE” then it should include what decisions were made and what commitments were made.

CONCLUSION

This report describes the results of the first monitoring review of MaineDOT's performance according to the terms of the MOU. While this review provides recommendations to enhance the Program, MaineDOT meets the terms of the MOU. The observations detailed in the above will be reevaluated and used to inform focus areas in future monitoring reviews, as well as the 326 MOU renewal process. The Team recommends MaineDOT continue to refine and enhance the effectiveness of their procedures, documentation, and decision-making as it relates to their assigned CE responsibilities. The Team commends MaineDOT for being receptive to implementing improvements to their program based on FHWA recommendations and notes that MaineDOT is currently addressing some of the items identified in this report.

Appendix A: MaineDOT Self-Assessment Performance Reports

MOU Self-Assessment Link: [25.07.02_326 NEPA Assignment Self Assessment Report_MaineDOT.pdf](#)

Appendix B: Monitoring Review Participants

Interviews

David Gardner – MaineDOT Environmental Office Director
Kristen Chamberlain – MaineDOT Senior Environmental Manager
Emily Morin – MaineDOT Environmental Specialist
Andrea Brady – MaineDOT Team Lead
Joshua Brown – MaineDOT Team Lead
Danielle Tetreau – MaineDOT Team Lead
Eric Ham – MaineDOT Senior Environmental Manager
Julie Senk – MaineDOT Historic Coordinator
Josh Nichols – MaineDOT Environmental Specialist
Justin Sweitzer – MaineDOT Region 1 Coordinator
Charles Hebson – MaineDOT Hydrologist
Kelly Houtz – MaineDOT Biologist

Monitoring Review Team

Rebecca Yedlin, FHWA Headquarters Environmental Protection Specialist: Review Team Leader, authored report, conducted project file reviews, document reviews, and interviews

Neel Vanikar, FHWA Headquarters Project Development Specialist: authored report, conducted project file reviews, document reviews, and interviews

Symone Howard, FHWA Headquarters Environmental Protection Specialist: authored report, conducted project file reviews, and interviews

Michelle Hilary, FHWA Resource Center Technical Director on Assignment to Headquarters: authored report and interviews

Susi Marlina, FHWA Maine Division Deputy Division Administrator: authored report, conducted project file reviews, document reviews, and interviews

Jamie Sikora, FHWA New Hampshire Division Environmental Program Manager: authored report, conducted project file reviews, document reviews, and interviews

Appendix C: MaineDOT Letter Response on Draft Report



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
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Janet T. Mills
GOVERNOR

Dale F. Doughty
COMMISSIONER

March 11, 2026

Susi Marlina, Deputy Division Administrator
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Edmund S. Muskie Federal Bldg.
40 Western Avenue
Room 614
Augusta, ME 04330

Dear Ms. Marlina,

On behalf of the Maine Department of Transportation (MaineDOT), thank you for the opportunity to review and respond to the Draft Compliance Review Report for MaineDOT's Categorical Exclusion (CE) Assignment Program under 23 U.S.C. § 326, dated February 13, 2026.

MaineDOT appreciates the thoroughness of the review conducted by the Federal Highway Administration (FHWA) Monitoring Review Team and values the collaborative and constructive approach taken throughout the process. We acknowledge FHWA's conclusion that MaineDOT is substantially in compliance with the terms of the 23 U.S.C. § 326 Memorandum of Understanding (MOU). We also appreciate the recognition of our successful practices, particularly in the areas of project management coordination, environmental commitment implementation, staffing resources, and training program enhancements.

MaineDOT has carefully reviewed the observations and recommendations provided in the report and offers the following general response.

Section 4(f) and Section 106 Documentation

MaineDOT acknowledges the need for greater clarity and consistency in documenting Section 4(f) "No Property" and "No Use" determinations. MaineDOT is currently updating Appendix K of the NEPA Guidance to clearly distinguish between situations where no Section 4(f) property is present and where a property is present but not used. The revised guidance will also clarify documentation expectations within the Coordination and Project Documentation (CPD) e-file.

Similarly, MaineDOT recognizes the need to enhance documentation for Section 106 Programmatic Agreement Appendix A (Exempt) determinations. MaineDOT will work to clarify the exemption categories. However, we do not plan to create additional documentation in the Section 106 File in the CPD e-file. The documentation will be in ProjEx and in the NEPA Report that is saved in the NEPA folder in the CPD e-file.

CE Reevaluations and ProjEx Enhancements

MaineDOT concurs with the recommendation to improve transparency and documentation of CE reevaluations. We are evaluating modifications to ProjEx to better reflect formal reevaluation actions, including certification dates and documentation tracking.

In addition, MaineDOT will review the disclosure language used in CE documentation to ensure that it matches the language prescribed in the 326 MOU. Updates will be incorporated into the NEPA Guidance and ProjEx-generated certification documents.

Project Scope, Easements, and Public Involvement

MaineDOT acknowledges the need to more clearly define project scope, termini, and independent utility within CE documentation. MaineDOT will evaluate options to supplement the NEPA Report with details in the ProjEx database.

Regarding right-of-way and easement documentation, MaineDOT will assess potential updates to ProjEx to distinguish between fee acquisitions and temporary or permanent easements, consistent with 23 CFR 710.105 terminology.

We will also review our NEPA Public Involvement Plan and NEPA Guidance to clarify public involvement levels for CE projects, documentation expectations, and distinctions between overall project-level outreach and NEPA-specific public involvement.

Quality Control and Delegation of Authority

MaineDOT will review the QA/QC Matrix and related guidance, but believes the current matrix covers the major actions and is sufficient for staff guidance and understanding of quality reviews and approvals.

Training and Continuous Improvement

MaineDOT remains committed to strengthening our training program. As noted during the review, we are implementing a comprehensive training tracking system and developing updated modules to ensure staff across relevant divisions understand their roles in supporting NEPA Assignment responsibilities.

MaineDOT appreciates FHWA's recognition of our environmental commitment tracking system and early project coordination practices, and we will continue to build on those strengths.

MaineDOT values its partnership with FHWA and is committed to continuous improvement of our 326 Assignment Program. MaineDOT views this monitoring review as an important opportunity to strengthen documentation, consistency, and transparency while maintaining timely and legally sufficient project delivery.

Please do not hesitate to contact me if you would like to discuss any aspect of this response further. We look forward to continued collaboration as we implement these enhancements and prepare for future monitoring reviews and eventual 23 U.S.C. 326 MOU renewal.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Gardner".

David Gardner
Environmental Office Director
Maine Department of Transportation

For Additional Information, please contact:

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