

Executive Summary

2021 Monitoring of Caltrans Performance under the Surface Transportation Project Delivery Program

July 2020–June 2021

The California Department of Transportation (Caltrans) has prepared this report on monitoring of its performance, under the Surface Transportation Project Delivery Program (commonly known as the NEPA Assignment Program), pursuant to Section 10.2 of the 23 United States Code Section 327 (23 USC 327) memorandum of understanding (MOU) between the Federal Highway Administration (FHWA) and Caltrans. The 23 USC 327 MOU stipulates that Caltrans perform annual self-monitoring of its performance against four performance measures and 10 performance measure components, identified in the MOU, and transmit a report on the results of its monitoring to FHWA. This report documents the results of Caltrans’ monitoring reviews of NEPA document approvals made from July 1, 2020 through June 30, 2021 (Quarters 53 through 56 of NEPA Assignment, referred to in this report as the 2021 monitoring period).

As noted in the past two monitoring reports, over the past couple of years, Caltrans has transitioned from monitoring reviews that focused on implementation of the specific details of Caltrans’ environmental document quality control (QC) process, such as precise consistency with Caltrans’ environmental document annotated outlines and proper completion of Caltrans’ QC forms and checklists, to one that now broadly evaluates the determinations, findings, and approvals made in compliance with federal environmental regulations. Like last year’s monitoring report, this report will distinguish between *substantive* findings that require corrective actions and *non-substantive findings* (such as inconsistencies with Caltrans’ annotated outlines, internal documentation tools, and filing requirements) that do not require corrective actions. *Non-substantive* findings are not included in calculating compliance with the MOU performance measures since they don’t affect the soundness and validity of findings and conclusions made under federal regulations, but are reported to relevant district staff, together with reminders on best practices and information on where to find, in Caltrans’ Standard Environmental Reference (SER), guidance on internal documentation and filing requirements.

Caltrans’ 2021 findings are summarized in Table 1. The compliance percentages in Table 1 are based on the *substantive* findings of the 2021 reviews, as measured against the four performance measures identified in Section 10.2 of the 2016 MOU. The four performance measures are labeled A–D to correspond with their identifiers in the MOU (Table 1). Also listed in Table 1 are the “components” of each measure (labeled i, ii, and iii), as also identified in the MOU. Finally, Table 1 shows the measurable “metrics” associated with each component (labeled with Arabic numerals such as 1, 2, and 3).

Table 1 shows that Caltrans exceeded the performance goal¹ for 19 of the 20 applicable metrics² related to the following general areas:

100% compliance:

- Submittal of annual monitoring reports
- Implementation of 2020 corrective actions
- Compliance with Sections 7, 106, 4(f), and 176(c) and Executive Orders (E.O.) 11990 and 11998
- Documentation of compliance with the Traffic Noise Analysis Protocol
- Appropriate use of Categorical Exclusions (CEs)
- Appropriate use of 23 USC 326 versus 23 USC 327 CEs
- Completion of legal sufficiency determinations
- General consistency with the filing system protocols
- Draft environmental documents with notices soliciting public comments
- Percentage of internal QC certification forms certifying consistency with annotated outline
- Percentage of DEDs and FEDs for which QA/QC review procedures were appropriately completed based on review of the internal and external QC certification forms and follow-up discussions with and information from district staff
- Percent of DEDs and FEDs with completed environmental document review checklists

95% compliance and exceedance of the performance goal achieved:

- Consistency with the environmental document annotated outlines in terms of inclusion of the exact NEPA Assignment language required by the 23 USC 327 MOU

95% compliance not achieved:

- The public review comments checkbox was inadvertently not checked on nine of 33 reviewed final document certification forms reviewed (73 % compliance).

Although this metric is intended to measure Caltrans' responsiveness to substantive comments received on NEPA documents, it is misleading as all

¹ The performance goal is 95% for percentage-based metrics.

² Three metrics were determined not to be applicable in 2021. See Table 1.

reviewed final documents included responses to substantive comments received during the draft environmental document public review periods. Therefore, Caltrans plans to replace this metric for fiscal year 2021/2022. See the discussion under the bullet entitled “Maintain effective responsiveness to substantive comments received from the public, agencies, and interest groups on NEPA documents” on page 13 of this report for further discussion of the replacement metric.

Exceedance of (non-percentage-based) performance goal:

- Communications with the resource agencies.

Achievement of cumulative median time savings in environmental document and Section 7 approvals:

- 12.2 median months saved for 307 draft environmental assessment (EA) approvals
- 16.0 median months saved for 281 FONSI approvals
- 28.0 median months saved for 23 draft environmental impact statements (EIS) approvals
- 122.4 median months saved for 20 final EIS approvals
- 5.0 median months saved for 190 Section 7 Biological Opinions

For the 15 applicable percentage-based metrics³, Caltrans achieved an overall rating of 97.3% or 2.3% over the goal of 95%. These monitoring results show that Caltrans is successfully carrying out the federal responsibilities assigned by FHWA, under the 23 USC 327 MOU, in accordance with all applicable federal laws and policies.

Caltrans’ self-monitoring effort continues to find minor irregularities in its NEPA documentation, such as insignificant inconsistencies with the environmental document annotated outlines, QC review certification procedures, and environmental filing protocols. To address these inconsistencies, Headquarters will continue to work closely with district staff to train new environmental generalists; clarify and refine guidance, as needed; and provide ongoing reminders regarding areas that need improvement.

In the fall of 2019, Caltrans’ Division of Environmental Analysis (DEA) formed a NEPA Process Improvement Team to identify ways in which DEA’s policies, tools, and procedures can be modified to provide more efficiencies in achieving environmental approvals and in delivering projects. The Team has approved improvements to the monitoring review

³ To identify the 15 applicable percentage-based metrics, see those metrics with a 95% performance goal in the fifth column of Table 1, “Caltrans 2021 Monitoring: Findings and Corrective Actions”.

methods; they are summarized in the “Changes to Monitoring Methods” section of this report.

Table 1. Caltrans 2021 Monitoring: Findings and Corrective Actions

| Performance Measure ^a | Components of Measure ^a | Metric ^b | Findings of 2021 Monitoring Review | Performance Goal | Goal Met? | Corrective Action |
|---|--|--|---|------------------|-----------------------|-----------------------|
| A. Compliance with NEPA and other federal laws and regulations | A.i. Maintain documented compliance with procedures and processes set forth in the MOU for the environmental responsibilities assumed under NEPA Assignment | A.i.1. Percent of self-assessment reports submitted to FHWA | 100% of the required self-assessment summary/ monitoring reports have been submitted to FHWA. | 95% | Yes | None required |
| | | A.i.2. Percentage of corrective actions identified in most recent self-assessment that have been implemented | 100% as both corrective actions from the 2020 Monitoring Report were implemented. | 95% | Yes | None required |
| | A.ii. Maintain documented compliance with requirements of all federal laws and regulations being assumed (Section 106, Section 7, etc.) | A.ii.1. Percent of final environmental documents (FEDs) that contain evidence of compliance with requirements of Section 7, Section 106, and Section 4(f) | 100% of 35 reviewed FEDs/CEs appropriately documented compliance with requirements of Section 7, Section 106, and Section 4(f). | 95% | Yes | None required |
| | | <i>A.ii.1.a. Compliance with other Executive Order 11990; Executive Order 11988; and Section 176(c) of the federal Clean Air Act</i> | <i>100% of 35 reviewed FEDs/CEs appropriately documented compliance with Executive Orders 11990 and 11988 and Section 176(c).</i> | <i>95%</i> | <i>Yes</i> | <i>None required</i> |
| | | <i>A.ii.1.b. Compliance with 23 USC Sec.139 (Efficient Environmental Reviews for Project Decision-making)</i> | <i>Not applicable since no final EISs were approved</i> | <i>95%</i> | <i>Not applicable</i> | <i>Not applicable</i> |
| | | <i>A.ii.1.c. Compliance with Traffic Noise Analysis Protocol requirements</i> | <i>100% of 35 reviewed FEDs/CEs appropriately documented compliance with the Noise Protocol.</i> | <i>95%</i> | <i>Yes</i> | <i>None required</i> |
| | (See note at the end of this table for explanation of italicized metrics) | | | | | |
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Table 1. Caltrans 2021 Monitoring: Findings and Corrective Actions (Continued)

| Performance Measure ^a | Components of Measure ^a | Metric ^b | Findings of 2021 Monitoring Review | Performance Goal | Goal Met? | Corrective Action |
|--|---|---|---|------------------|-----------|----------------------|
| | (See note at the end of this table for explanation of italicized metrics) | A.ii.1.e. <i>Appropriate use of 23 USC 326 versus 23 USC 327 Categorical Exclusions</i> | <i>100% of 2 CEs were appropriately approved under the 23 USC 327 MOU</i> | 95% | Yes | <i>None required</i> |
| B. Attainment of supportable NEPA decisions | B.i.a. Legal sufficiency determinations made by counsel (FEISs and individual Section 4(f) determinations) | B.i.a.1. Percent of final EISs and individual Section 4(f) determinations with legal sufficiency determinations completed prior to environmental document approval | 100% of 1 Individual Section 4(f) determination had a legal sufficiency determination ⁴ | 95% | Yes | None required |
| B.i. Maintain internal quality control and assurance measures and processes, including a record of: | B.i.b. Compliance with Caltrans environmental document content standards and procedures | B.i.b.1. Percentage of internal QC certification forms certifying consistency with annotated outline | 100% of 61 DEDs and FEDs had internal certification forms with certification signatures or equivalent documentation on file indicating that documents were reviewed by the environmental document preparer for consistency with the applicable SER annotated outline. | 95% | No | None required |
| | | B.i.b.2. Percentage of sampled environmental documents that followed applicable annotated outline | 95% or 58 of 61 reviewed DEDs and FEDs followed the annotated outlines in terms of chapter and section organization. Three environmental documents lacked the required NEPA Assignment language, required by the 23 USC 327 MOU Section 3.2.6. | 95% | Yes | None required |

⁴ No final EISs were approved during this monitoring period.

Table 1. Caltrans 2021 Monitoring: Findings and Corrective Actions (Continued)

| Performance Measure ^a | Components of Measure ^a | Metric ^b | Findings of 2021 Monitoring Review | Performance Goal | Goal Met? | Corrective Action |
|--|--|---|--|---|-----------|-------------------|
| | | B.i.b.3. Percentage of DEDs and FEDs for which the completed QA/QC procedures are appropriately completed based on an independent review of the internal QC certification form and follow-up information | 100% of 61 reviewed DEDs and FEDs were QC reviewed | 95% | Yes | None required |
| | | B.i.b.4. Percent of DEDs and FEDs with completed checklists | 100% of 61 reviewed DEDs and FEDs had complete checklists. | 95% | Yes | None required |
| | B.i.c. Documentation of project records for projects under the NEPA Assignment Program | B.i.c.1. Percent of sampled EA/EIS project files organized according to the established filing system | 100% of 15 reviewed electronic files generally contained the environmental documentation required by Uniform Filing System (UFS) requirements. | 95% | Yes | None required |
| C. Monitor relationships with agencies and the general public (effectiveness of relationships with agencies and the general public) | C.i. Assess change in communication among Caltrans, federal and state resource agencies, and the public | C.i.1. Resource Agency Survey: Compare average evaluation ratings for each period and cumulatively over time | 88% cumulative average of positive responses | Equal to or above cumulative average of 76% positive responses since first survey in 2009 | Yes | None required |
| | | C.i.2. Public Meeting Material Review: Percent of DEDs with notices soliciting public comments | 100% of 28 reviewed DEDs had public notices | 95% | Yes | None required |

Table 1. Caltrans 2021 Monitoring: Findings and Corrective Actions (Continued)

| Performance Measure ^a | Components of Measure ^a | Metric ^b | Findings of 2021 Monitoring Review | Performance Goal | Goal Met? | Corrective Action |
|---|--|---|---|---|----------------|--|
| | | C.i.3. Anonymous Third-Party Public Meeting Review: Compare average evaluation ratings for each self-assessment period and cumulatively over time | Not applicable ⁵ | Equal to or above cumulative average rating of 4.5 (out of 5.0) since 4th Self-Assessment | Not applicable | Not applicable |
| | C.ii. Maintain effective responsiveness to substantive comments received from the public, agencies, and interest groups on NEPA documents | C.ii.1. Percentage of signed final document internal QC certification forms in file with public review comments box checked | 73% or 24 out of 33 reviewed FEDs had QC certification forms that indicated that public review comments had been appropriately addressed. | 95% | No | Caltrans Headquarters discussed this finding with district managerial and project staff to ensure that they understand the QC review and certification requirements, and the proper way to complete the certification forms. |
| | C.iii. Maintain effective NEPA conflict resolution processes whenever appropriate | C.iii.1. Date that formal conflict resolution action began to date resolution reached | No formal conflict resolution actions were required during the 2021 monitoring review period. | Not applicable | Not applicable | Not applicable |
| D. Timely completion of NEPA process | D.i. Compare time to completion for environmental document approvals before and after Assignment (July 1, 2007) | D.i.1. For SHS and Local Assistance projects, compare median time from begin administrative DED QC process to DED approval before and after assignment | 3.1 (draft EAs) and 3.1 (draft EISs) median months saved | Any savings in time as compared to pre-NEPA Assignment | Yes | None required |
| | | D.i.2. For SHS and Local Assistance projects, compare median time from begin administrative FED QC process to FED approval before and after assignment | 0.9 (FONSIs) and 4.1 (final EISs) median months saved | Any savings in time as compared to pre-NEPA Assignment | Yes | None required |

⁵ No third-party anonymous public meeting reviews were conducted during the 2021 monitoring review period due, in part, to COVID-19 restrictions that prevented in-person public meetings/hearings. This review element will be eliminated beginning with the 2022 monitoring period.

Table 1. Caltrans 2021 Monitoring: Findings and Corrective Actions (Continued)

| Performance Measure ^a | Components of Measure ^a | Metric ^b | Findings of 2021 Monitoring Review | Performance Goal | Goal Met? | Corrective Action |
|----------------------------------|--|---|--|--|-----------|-------------------|
| | | D.i.3. Compare median time from begin environmental studies/NOI to DED approval before and after assignment | 12.2 (draft EAs) and 28.0 (draft EISs) median months saved | Any savings in time as compared to pre-NEPA Assignment | Yes | None required |
| | | D.i.4. Compare median time from begin environmental studies/NOI to FED approval before and after assignment | 16.0 (FONSIs) and 122.4 (final EISs) median months saved | Any savings in time as compared to pre-NEPA Assignment | Yes | None required |
| | D.ii. Compare time to completion for key interagency consultations formerly requiring FHWA participation before and after Assignment (July 1, 2007) | D.ii.1. Compare median time from submittal of biological assessments to receipt of biological opinions before and after assignment | 5.0 median months saved | Any savings in time as compared to pre-NEPA Assignment | Yes | None required |

Explanation of italicized metrics: In addition to the metrics developed in conjunction with FHWA (see footnote “b” below), Caltrans also measures and reports on performance of five additional metrics that are related to specific federal environmental regulations. These additional metrics broaden the review of compliance with federal requirements with additional regulations that protect specific sensitive environmental resources. These metrics are identified as A.ii.1.a–e.

^a The four performance measures listed in this table are identified in Section 10.2 of the 2016 MOU (labeled A–D to correspond with their identifiers in the MOU). The 2016 MOU also identifies the “components” of each measure (labeled i, ii, and iii consistent with the MOU).

^b The “metrics”, associated with each component (labeled with Arabic numerals such as 1, 2, 3 etc.), were developed in discussions with FHWA and have been evaluated consistently each year under NEPA Assignment.

Report on 2021 Monitoring of Caltrans Performance under the Surface Transportation Project Delivery Program

July 1, 2020–June 30, 2021

Scope of Monitoring

During the 2021 monitoring effort, Caltrans evaluated all NEPA documents that were approved statewide during the July 1, 2020 through June 30, 2021 monitoring period; a selection of environmental files for approved environmental documents were also reviewed. As with last year, due to the pandemic, Caltrans conducted the file review by inspecting electronic files; Districts 5, 9, and 10 were selected for the virtual review. Caltrans NEPA Assignment staff are currently discussing the approach for future monitoring reviews and whether it is most efficient to conduct virtual or live reviews of environmental files, or some combination.

A total of 63 approvals for State Highway System and Local Assistance projects were reviewed, statewide, against each of the four performance measures, 10 performance measure components, and 20 performance metrics (see Table 1). These 63 approvals are identified below by NEPA class of action:

- Two 23 USC 327 Categorical Exclusions (CEs)
- 27 Environmental Assessments (EAs)
- 33 Findings of No Significant Impact (FONSI)s
- One draft Environmental Impact Statement (EIS)

Fifteen electronic project files for Districts 5, 9, and 10 were reviewed in mid-September 2021.

Caltrans also conducted a program-level review of the NEPA Assignment Program to determine if environmental document guidance, policies, tools, and training are up-to-date.

Monitoring Methods

The monitoring findings are based on Caltrans' progress toward meeting performance metrics that Caltrans identified in collaboration with FHWA. Caltrans also measured the performance of five additional metrics, identified in italicized print and labeled *1a*, *1b*, *1c*, *1d*, and *1e* in Table 1 under measure component A.ii., which are related to specific federal environmental regulations. These additional metrics broaden the review of compliance with federal requirements with additional regulations that protect specific sensitive environmental resources.

Substantive and Non-Substantive Findings

As with last year’s monitoring report, two categories of findings are identified in this report:

- **Substantive findings:** Substantive findings are the focus of the monitoring reviews and are made for deficiencies related to compliance with federal environmental regulations or other federal documentation or procedural requirements. Examples of substantive findings include:
 - Failure to obtain an air quality conformity determination or to document a Wetlands Only Practicable Alternative finding prior to NEPA approval, or
 - Failure to obtain written concurrence for a Section 4(f) de minimis finding, prior to NEPA approval, from the agency with jurisdiction over the Section 4(f) resources, or
 - Failure to include the correct NEPA Assignment language on the cover of environmental documents/FONSI/Record of Decisions, as required by Section 3.1.2 of the 23 USC 327 MOU.
 - Since Metrics B.i.b.1. (Percentage of internal QC certification forms certifying consistency with the annotated outline) and C.ii.1. (Percentage of signed document internal QC certification forms in file with the public comments box checked) specifically evaluate whether the Environmental Document Preparer/Oversight Coordinator signed the internal certification form (Metric B.i.b.1.) and whether the check box on the internal certification form, labelled “Public review comments have been appropriately addressed” is checked (Metric C.ii.1.), the absence of this signature or checked box is currently counted as a substantive deficiency. Caltrans is proposing to change this metric, as explained in the “Changes to Monitoring Methods” section, below.

Corrective actions are identified for substantive findings. Corrective actions for project-specific findings typically involve completion of a revalidation form and corrections to documentation, as needed.

Substantive findings are quantified in calculating the compliance percentages and determining whether the performance metric goals are met.

- **Non-Substantive findings:** Non-substantive findings are also identified for irregularities in documentation or in implementing procedures per Caltrans’ requirements such as:
 - Minor deviations or inconsistencies with the environmental document annotated outlines appear in approved environmental documents. For example, a conclusion in an environmental document does not correspond exactly, word-for-word, with the conclusory language found in the annotated outline, but the meaning of the conclusion is consistent with the meaning found in the annotated outline;

- Irregularities in completing checklists that provide supporting documentation for Caltrans' decisions. For example, the Air Quality Conformity Checklist is not completely filled out for a project, but an FHWA conformity determination is obtained or a finding is documented that a project is exempt from having to make a conformity determination;
- Projects follow the required QC review and certification procedures, but the projects' QC documentation incorporates minor irregularities. For example, a Peer Reviewer certification signature is not provided on the internal certification form, but the peer review was completed;
- Environmental files are generally organized according to Caltrans' UFS requirements, but not all documentation, such as final technical reports that were prepared, are placed in the environmental file.

As noted earlier in this report, electronic, rather than hard copy files, were reviewed for this monitoring period, largely due to the pandemic. Most, but not all districts, retain both electronic and hard copy files. However, Caltrans' policy requires UFS-consistent hard copy files, and electronic files are optional.

Some of this year's reviewed electronic files deviated organizationally from the UFS, but required documentation was found; these files are counted as non-substantive findings. Detailed guidance has been provided to district staff responsible for these files regarding steps that should be undertaken to reorganize the electronic files to be consistent with the UFS.

Prior to 2019, Caltrans had counted these irregularities as "deficiencies" since the focus of monitoring in the early years of the NEPA Assignment Program had been strict consistency with Caltrans' internal NEPA documentation and QC tools and procedures. Since 2019, Caltrans has shifted the focus of the monitoring reviews to the appropriateness of *substantive* determinations, findings, and approvals made in compliance with federal environmental regulations.

Reminders for district project staff, which clarify Caltrans' requirements, are typically provided for non-substantive findings. The purpose of these reminders is to ensure that the irregularities are not repeated in subsequent environmental documentation that is prepared. The reminders include identifying where in the SER the related guidance can be found and an explanation of the guidance.

Non-substantive findings are not quantified in calculating the performance metric compliance percentages.

The methods used in evaluating each of the four performance measures, identified in the 23 USC 327 MOU, are described below.

Changes to Monitoring Methods

Since 2019, Caltrans' NEPA Process Improvement Team has been evaluating and approving measures to make DEA's environmental review and approval policies, tools, and procedures more efficient. This effort includes determining how monitoring methods and performance metrics can be improved to provide more meaningful results that lead to higher quality environmental documents. The following change has been adopted and was applied to the 2021 monitoring review:

- **Review of communications with the public:** To measure whether Caltrans is providing the public with the opportunity to input into the environmental review process, the changes, described below, are being implemented. These changes align California's approach more closely with other NEPA Assignment states and are consistent with Caltrans' goal of replacing review elements that focus on the details of completing QC forms and tools with broader compliance:
 - Replacement of detailed reviews of public meeting materials and presentations with review of whether draft environmental documents have been noticed to the public; and
 - Discontinuation of anonymous review of public meetings.

The following additional changes are being initiated for the 2022 monitoring period for NEPA document approvals beginning July 1, 2021:

- **Scope:** Review a *sample* of approved environmental documents rather than *all* approved environmental documents for metrics related to consistency with the environmental document annotated outlines, environmental document QC review procedures, and the UFS. All approved final environmental documents will continue to be reviewed for compliance with federal regulations;
- **Compliance with federal regulations:** Streamlining of this review to focus on evidence that findings/conclusions have been made in compliance with federal environmental regulations. Review questions related to the specific content requirements of Caltrans' environmental document annotated outlines (for example, the inclusion of Section 7 species lists and wetland figures in the environmental document) have been eliminated.
- **Environmental document QC review procedures:** Employ a broader approach for this review to replace the existing form-focused reviews. Relying on whether these forms are filled out correctly doesn't portray an accurate picture as to whether Caltrans' quality assurance and quality control procedures are followed because the forms may be marked incorrectly even if the procedures were generally followed.
- **Maintain effective responsiveness to substantive comments received from the public, agencies, and interest groups on NEPA documents:** The review of whether the public review comments checkbox was checked on the internal QC certification form will no

longer be used to measure responsiveness to comments received on NEPA documents as this review does not accurately measure this metric. The 2021 review found that the public review comments checkbox was inadvertently not checked on nine of 33 reviewed final document certification forms resulting in 73 % compliance for the related metric. The 73% compliance is misleading as all reviewed final environmental documents included responses to public comments received during the draft environmental document public comment period.

This metric will be replaced with one that assesses whether a response to comments section has been included in all final environmental documents.

These monitoring improvements are being communicated to district staff, and training will be provided, as needed.

A. Compliance with NEPA and other Federal Laws and Regulations

Compliance with this performance measure was judged by the following:

- Determination if all self-assessment and monitoring reports, prepared by Caltrans, have been submitted to FHWA;
- Review of 33 final environmental documents and two CEs, approved statewide, against specific review elements related to the following regulations, in order to determine whether the documentation and processes used were appropriate and complete:
 - Section 7 of the federal Endangered Species Act (FESA)
 - Section 106 of the National Historic Preservation Act (NHPA)
 - Section 4(f) of the U.S. Department of Transportation Act
 - Section 176(c) of the Clean Air Act
 - E.O. 11990, Protection of Wetlands
 - E.O. 11998, Floodplain Management
 - Caltrans Traffic Noise Analysis Protocol

Compliance with 23 USC 139 was not reviewed as no final EISs were approved during this monitoring period.

B. Attainment of Supportable NEPA Decisions

This performance measure was evaluated based on confirming that the following requirements were met for NEPA approvals during the 2021 monitoring period:

- Legal sufficiency determinations for one Individual Section 4(f) Evaluation;
- Consistency in the organization and environmental topics and inclusion of the required NEPA Assignment language, evaluated in 61 approved draft and final environmental

documents, as compared to the requirements of Caltrans' environmental document annotated outlines;

- Implementation of Caltrans' QC review procedures for 61 draft and final environmental documents; and
- Review of 15 electronic environmental files for projects in Districts 5, 9, and 10 for general consistency with Caltrans' UFS requirements.

C. Monitor Relationships with Agencies and the Public

Agencies

Caltrans conducted a survey of state and federal resource agencies to assess whether the relationships between Caltrans and resource agencies have remained consistent or have changed since initiation of NEPA Assignment. Of the 74 resource agency staff who were invited to participate in this survey, 24 (32%) responded to the survey and were polled regarding Caltrans' effectiveness as the NEPA lead agency.

Public

To monitor relationships with the public, Caltrans reviewed for the presence of public notices for draft environmental documents and for certifications that public comments were addressed.

D. Timely Completion of NEPA Process

Caltrans calculated the median number of months it is taking to review and approve environmental documents and obtain Section 7 Biological Opinions under NEPA Assignment, as compared with FHWA timeframes prior to NEPA Assignment (See Tables 2, 3, and 4).

Program-Level Review

For the program-level review, Caltrans reviews its SER to identify the updates and improvements made to NEPA guidance, policies, and tools, and to evaluate the effectiveness of its NEPA Assignment training plan by determining whether planned training sessions were completed. A new program initiated by DEA is also described in this section.

2021 Findings

This section summarizes the *substantive* and *non-substantive* findings from the 2021 monitoring review. The compliance percentage for *substantive* findings, relative to the metric's performance goal, is identified in parentheses in the bolded metric titles below (see also Table 1). These compliance percentages reflect whether deficiencies, related to

compliance with federal environmental regulations or other federal documentation or procedural requirements, were found.

Non-substantive findings are also generally summarized, below, under each relevant metric. The project-specific *non-substantive* findings were communicated to all affected environmental staff, and reminders were provided identifying the reason for the inconsistency and the related guidance.

A. Compliance with NEPA and Other Federal Laws and Regulations

A.i.1. Percentage of Monitoring Reports Submitted (100%): One hundred percent of required self-assessment and monitoring reports have been submitted to FHWA. The reports from the last three years are available on the Caltrans' DEA website, and earlier reports are available upon request.

A.i.2. Percentage of Identified Corrective Actions Implemented (100%)

The following corrective actions, identified in the 2020 Monitoring Report, were implemented:

- A Caltrans revalidation form was completed for each of the two projects with findings related to Section 7. One project had not obtained a U.S. Fish and Wildlife Service (USFWS) Biological Opinion (BO), and another had not obtained a USFWS letter of concurrence prior to final environmental document/FONSI approval. These approvals have been obtained, attached to revalidation forms, and placed in the environmental file.
- A Caltrans revalidation form was also completed for a project that did not have a letter of concurrence, for a de minimis finding, from the agency with jurisdiction over a designated wildlife area, prior to final environmental document/FONSI approval. The letter was received after FONSI approval and placed in the environmental file.
- In last year's monitoring report, three environmental documents were found to be missing an Only Practicable Alternative Wetlands finding under E.O. 11990. Upon further research, this finding was reversed for one of the three projects as this project had addressed this finding in its documentation of the Least Environmentally Damaging Practicable Alternative.

For the other two projects, a finding was prepared and appended to a revalidation form.

- A Caltrans revalidation form was prepared for a project that had not received a conformity determination from FHWA prior to final environmental document/FONSI approval. The conformity determination was received after FONSI approval.
- Caltrans discussed the absence of the environmental preparer certification signature on the three internal certification QC forms with appropriate district managerial and project staff. These reviews had occurred but the signature certification line had been left blank.

- Caltrans also discussed the absence of a public comments check mark on the three internal certification forms with appropriate district managerial and project staff. The responses to public comments had been reviewed by the environmental generalist, but the public comments check box had been inadvertently left blank.

A.ii.1. Compliance with Sections 7, 106, and 4(f) (100%)

The 35 reviewed final environmental documents/CEs did not result in any *substantive* findings related to Sections 7, 106, and 4(f) compliance. The following *non-substantive* irregularities were also found for one or more documents. These irregularities didn't alter the conclusions made under these federal environmental regulations:

- **Section 7**
 - Findings of No Effect were not made for all applicable species on the USFWS and NMFS species lists.
 - Regulatory language was not used for No Effect findings.
 - A Biological Opinion was obtained, but a copy was not placed in the environmental document, as required by the annotated outlines.
- **Section 106**
 - Findings of Effect were made for individual properties, but a Finding of Effect was not made for the project as a whole.
 - Regulatory language was not used for No Historic Properties Affected and No Adverse Effect findings.
 - A concurrence letter obtained from the State Historic Preservation Officer for a Section 106 finding was not included in the final environmental document.
 - Documentation for a No Historic Properties Affecting finding was placed in the environmental topics dismissal section of the environmental document rather than in the body of the report.
- **Section 4(f)**
 - A temporary occupancy exception concurrence letter was obtained, but not included in the environmental document.

A.ii.1a. Compliance with Executive Order 11990, Executive Order 11988, and Section 176(c) of Federal Clean Air Act (100%)

No *substantive* deficiencies were found related to these executive orders/regulations during the 2021 monitoring period. The following *non-substantive* irregularities were found:

- **E.O. 11990:** A number of environmental documents lacked an exhibit showing the location of jurisdictional wetlands and impacts to wetlands even though such an exhibit is

required by the annotated outlines. An E.O. 11990 finding was also erroneously made for a project that had no permanent impacts to wetlands.

- **E.O. 11988:** Regulatory language was not used in concluding that there would be no significant encroachment in the 100-year base floodplain.
- **Section 176(a):** Interagency consultation for PM2.5 that occurred for one project was not documented in the environmental document. In another case, a bridge replacement project that is exempt from conformity under 40 CFR 93.126 did not disclose this conclusion in the environmental document. Finally, an air quality conformity determination for a project was included in the appendix of an environmental document without any explanation of the concurrence in the Air Quality section of the report.

A.ii.1.b. Compliance with 23 USC 139 (Not Applicable)

Districts 5, 9, and 10 did not approve any final EISs during this monitoring period, and therefore, none were reviewed.

A.ii.1.c. Traffic Noise Analysis Protocol (100%)

Caltrans did not find any *substantive* deficiencies in the documentation prepared under 23 CFR 772. The following *non-substantive* irregularities were found:

- A couple of projects that were not Type 1 failed to explicitly make this statement in their environmental documents, as required by the annotated outline.
- A 23 CFR 772 analysis was not summarized in one final environmental document.

A.ii.1.d and e. Categorical Exclusions (100%)

Two 23 USC 327 CEs were approved during the 2021 monitoring period. Both met the definition of a categorically-excluded action, and both were appropriately approved as 23 USC 327 CEs.

B. Attainment of Supportable NEPA Decisions

B.i.a.1. Legal Sufficiency Determinations (100%)

The final Individual Section 4(f) Evaluation approved during this monitoring period had a legal sufficiency determination prior to NEPA approval.

B.i.b.1. Certifications for Consistency with Annotated Outlines (100%)

This metric relates to whether the environmental document preparer certified that the documentation was prepared consistent with the environmental document annotated outline. All reviewed documents had this certification on the internal certification form.

B.i.b.2. Consistency with Annotated Outlines (95%)

All 61 reviewed draft and final environmental documents were generally consistent with the organization and coverage of topics required by the annotated outlines. Three environmental documents had *substantive* findings as the NEPA Assignment language found on the document cover or on the FONSI, required by the 23 USC 327 MOU Section 3.2.6, failed to reference the 2016 MOU.

B.i.b.3. Proper Implementation of Environmental Document Quality Control Requirements (100%)

All approved draft and final environmental documents were QC reviewed per the Caltrans Environmental Document Quality Control Program. In a few cases, QC reviews were completed, but reviewers failed to check the appropriate check box or sign the certification form. In some instances, email documentation served as the QC review verification due to lack of access to project forms that were filed in district offices and could not be accessed with office restrictions during COVID-19.

B.i.b.4. Completed Environmental Document Checklist (100%)

All of the 61 reviewed environmental documents had completed checklists.

B.i.c.1. Files Organized According to the Established Filing System (100%)

As noted above, some of this year's reviewed electronic files in Districts 5, 9, and 10 deviated organizationally from the UFS, but the required documentation that the files were reviewed for was found. In some cases, district staff were contacted to locate the documentation, or the documentation was located in the STEVE supercontainer; district project staff were asked to save the documentation in the project's electronic and paper files. Detailed guidance has been provided to district staff responsible for these files regarding steps that should be undertaken to reorganize the electronic files to be consistent with the UFS.

C. Monitor Relationships with Agencies and the General Public

For the 2021 monitoring period, this performance measure was evaluated based on two performance metrics: (1) ratings provided by the resource agencies with whom Caltrans partners, and (2) presence of draft environmental document public notices.

C.i.1. Average Evaluation Ratings from Resource Agency Surveys (88% versus a goal of 76% or higher)

Figure 1 shows the percentage of Resource Agency Survey respondents who rated Caltrans favorably for the following 10 qualities:

- 2a. Capable of assuming FHWA's NEPA responsibilities
- 2b. Responsiveness

- 2c. Listening skills
- 2d. Consultation efficiency
- 2e. Quality
- 2f. Conscientiousness in adhering to federal laws
- 2g. Cooperativeness on existing programmatic agreements and MOUs
- 2h. Interagency coordination
- 2i. Consideration of resource agency mission
- 2j. Timeliness in which project resolutions are reached

Favorable responses include the following:

- Answers of “yes” (but excludes answers of “no”) on questions regarding whether Caltrans possesses a specified quality;
- Answers of “strongly agree”, or “somewhat agree” (but excludes answers of “neither agree nor disagree”, “somewhat disagree”, or “strongly disagree”) to questions asking if Caltrans possesses a specified quality;
- Ratings of “excellent”, “very good”, or “good” (but excludes ratings of “average” and “poor”) relative to a specified quality.

The goal for this metric is that the average 2021 percentage of favorable responses for all 10 qualities is equal to or exceeds the cumulative average percentage of favorable responses received for all qualities during the surveys undertaken between 2009 and 2021. During the 2021 monitoring period, Caltrans had an average of 88% favorable responses for all questions, as compared to 76% for 2009-2021. Therefore, Caltrans exceeded the cumulative average rating and has exceeded its 2021 goal for this metric.

C.i.2. Draft Environmental Documents with Notices Soliciting Public Comments (100%)

All 28 reviewed draft environmental documents had notices that were distributed to solicit public comments on the draft document and to invite the public to scheduled public meetings/hearings.

C.i.3. Average Evaluation Ratings for Anonymous Third-Party Public Meeting Review (Not Applicable)

No third-party anonymous public meeting reviews were conducted during the 2021 monitoring review period due, in part, to COVID-19 restrictions that prevented in-person public meetings/hearings.

C.ii.1. Percentage of Signed Final Document QC Forms with Public Review Comments Box Checked (73%)

This metric measures whether the check box on the internal certification form, related to public review comments, is checked. Although public review comments were addressed, the internal certification forms for nine final environmental documents had empty check boxes. As discussed above, this review element will be replaced beginning in fiscal year 2021/2022 with one that ensures incorporation of a response to comment section in all final environmental documents.

C.iii.1. Date that Formal Conflict Resolution Action Began to Date Resolution Reached (Not Applicable)

No formal conflict resolution action has been initiated on any NEPA Assignment project.

D. Timely Completion of NEPA Process

Review of the four timeliness metrics, as described below, indicates that Caltrans achieved a substantial time savings for each measured environmental milestone.

D.i.1. Draft Environmental Document Review and Approval Median Time Frames

Caltrans achieved a savings of 3.1 (draft EA) and 3.1 (draft EIS) months in the median time that it took to review and approve draft environmental documents that were approved through the 2021 monitoring period, as compared to the baseline of pre-NEPA Assignment approvals by FHWA. These time savings are shown in the first and third rows of Table 2 below; the numbers in parentheses reflect the number of approvals made by Caltrans since the initiation of NEPA Assignment.

Table 2. Environmental Document Review and Approval Time Savings

| Milestone | Median Timeframe in Months (Number of Projects) | | Median Time Savings in Months |
|---|--|--|--|
| | Pre-NEPA Assignment Program Projects | NEPA Assignment Program Projects Through June 2021 | |
| Begin QC of administrative draft EA to draft EA approval | 5.4 (29) | 2.3 (281) | 3.1 |
| Begin QC of administrative final EA to FONSI approval | 2.5 (22) | 1.6 (270) | 0.9 |
| Begin QC of administrative draft EIS to draft EIS approval | 9.3 (8) | 6.2 (23) | 3.1 |
| Begin QC of administrative final EIS to final EIS approval | 9.9 (4) | 5.8 (22) | 4.1 |

D.i.2. Final Environmental Document Review and Approval Median Time Frames

As shown in the second and fourth rows of Table 2, Caltrans also achieved savings of 0.9 (FONSI) and 4.1 (final EIS) months in the median time that it took to review and approve final environmental documents.

D.i.3. Draft Environmental Document Preparation Median Time Frames

Caltrans achieved savings of 12.2 (draft EA) and 28.0 (draft EIS) months in the median time that it took to prepare draft environmental documents approved through the 2021 monitoring period, as compared to the FHWA baseline (Table 3).

Table 3. Environmental Document Preparation Time Savings

| Milestone | Median Timeframe in Months (Number of Projects) | | Median Time Savings in Months |
|---|--|--|--|
| | Pre-NEPA Assignment Program Projects | NEPA Assignment Program Projects Through June 2021 | |
| Begin environmental studies to draft EA approval | 42.3 (31) | 30.1 (307) | 12.2 |
| Begin environmental studies to FONSI approval | 54.1 (31) | 38.1 (281) | 16.0 |
| Notice of Intent to draft EIS approval | 69.9 (8) | 41.9 (23) | 28.0 |
| Notice of Intent to final EIS approval | 193.9 (5) | 71.5 (20) | 122.4 |

D.i.4. Final Environmental Document Preparation Median Time Frames

Caltrans also achieved savings of 16.0 (FONSI) and 122.4 (final EIS) months in the median time that it took to prepare final environmental documents (Table 3).

D.ii.1. Section 7 Consultation Median Time Frames

Table 4 shows the median time savings that has been achieved for Section 7 FESA formal consultations. Caltrans has achieved a savings of 5.0 months for the past 12 years of the NEPA Assignment Program as compared to pre-NEPA Assignment consultations.

Table 4. Section 7 Consultation Time Savings

| Milestone | Median Timeframe in Months (Number of Biological Opinions) | | Median Time Savings in Months |
|---|---|--|--|
| | Pre-NEPA Assignment Program Projects | NEPA Assignment Program Projects Through June 2021 | |
| Submittal of Section 7 documentation to resource agency to Biological Opinion | 11.0 (25) | 6.0 (190) | 5.0 |

Program-Level Review

Improved Guidance: Standard Environmental Reference Updates

Caltrans continues to update the SER, Local Assistance Procedures Manual, and the NEPA Assignment external and internal website pages to clarify NEPA Assignment requirements, as needed. In 2021, DEA also posted to the SER a brief video tutorial on “Navigating the SER”. The most notable updates to the SER during this monitoring period included the following updates and additional guidance:

Volume 1

- Chapter 5 was updated to add a Traffic and Transportation/Pedestrian and Bicycle Facilities section.
- Chapters 30-37 were updated to reflect new digital submission requirements for the State Clearinghouse and revocation of E.O. 13807 (One Federal Decision).

Policy Memos

The following policy memos were posted that roll out improved procedures, approved by the NEPA Improvement Policy Team, related to the following:

- Programmatic No Effects Memo
- Alternative processes for federal Endangered Species Act Section 7 consultation
- Flexible approaches in the timing of obtaining Biological Opinions
- Changes to requirements for obtaining Section 7 species lists
- Use of CE Checklist as an optional tool

MOUs, MOAs, and Agreements

A Programmatic Categorical Exclusion Agreement for Non-Highway Projects between FHWA and Caltrans was posted to address actions, classified as non-highway projects that are subject to NEPA.

Other Guidance

A link was added to the California Senate Bill 743 implementation website that contain links to the Transportation Analysis Framework and Transportation Analysis under California Environmental Quality Act (CEQA) guidance documents related to induced travel analysis.

Training

Due to the COVID-19 pandemic, the training program was forced to cancel all the planned in-person trainings from March 2021 through January of 2022. Caltrans was initially directed to cancel non-essential in-person meetings or conduct them virtually. This impacted several classes that fell under NEPA Assignment, which were included in the FY 2019-2020 and 2020-2021 Caltrans' NEPA Assignment Training Reports. When possible, Caltrans converted to virtual meetings and/or on-demand. In all, Caltrans taught 18 courses during FY 2020-2021 either virtually or on-demand.

The FY 2021-2022 Training Plan identifies all training courses to be offered to Caltrans environmental staff and technical specialists on an as-needed basis during the current fiscal year. The plan shows that 20 courses have been or are to be offered. This training plan was developed in consideration that in person trainings would be allowed after the widespread distribution of the COVID-19 vaccine and in person trainings were planned to start again in early fall 2021. However, with the unforeseen spike in COVID-19 cases due to the Delta Variant, it was decided that all in person courses would once again be cancelled till at least January 2022. At that point the situation will be evaluated again to see if in person courses can be help safely and effectively.

The NEPA Assignment Team is updating the monitoring webinar that is offered to district staff. The webinar will include a summary of improvements made to the monitoring reviews, together with procedural changes adopted by the NEPA Process Improvement Team.

NEPA Process Improvement Team

The NEPA Process Improvement Team adopted a number of improvements to Caltrans' environmental procedures in 2021 and posted policy memos to the SER, making these improvements effective as of the date of the memos. Caltrans' Environmental Management Office is also in the process of updating the SER, as needed, to make the SER volumes, forms, and templates consistent with these new policies and procedures. These improvements include improved Section 7 procedures and more efficient use of Caltrans' CE documentation tools. DEA will also provide training to district staff, as needed.

The NEPA Process Improvement Team will be rolling out additional procedural improvements in fall 2021 that will streamline the environmental document QC review process.

Statement by Chief, Division of Environmental Analysis

Based on Caltrans' monitoring of its performance, during FY 2020-2021, under the Surface Transportation Project Delivery Program, I find the responsibilities assumed by Caltrans under the 23 USC 327 MOU are being carried out in accordance the MOU and all applicable federal laws and policies.

Signed:

Ramon Hopkins
Acting Chief, Division of Environmental Analysis
California Department of Transportation

Date:

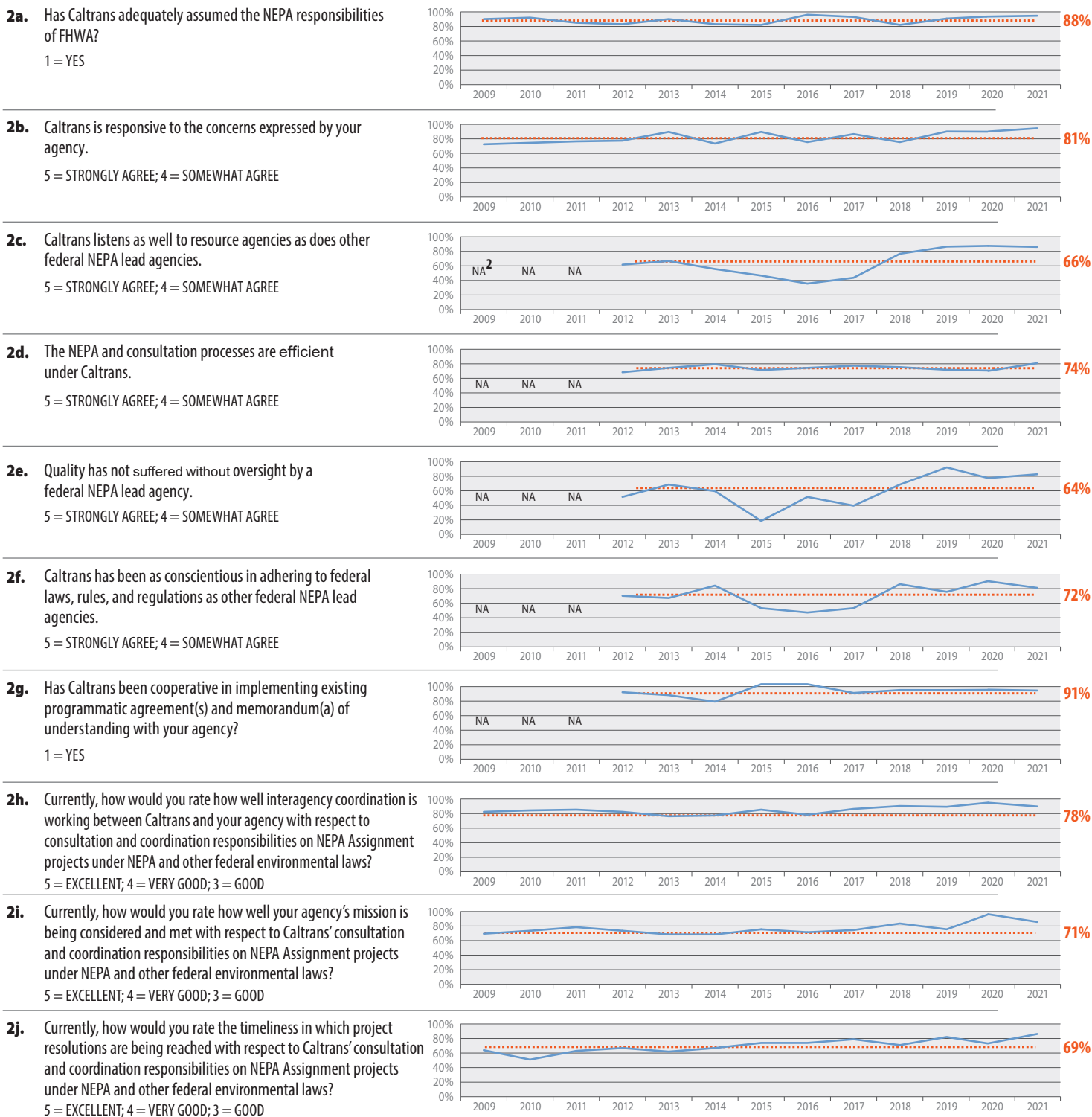
Figure 1
2021 Resource Agency Survey Results¹

1,2

All questions combined: Cumulative average percentage (2009-2021) – 76%
Cumulative average percentage (2021) – 88%

Legend

— Average by year
 Cumulative average (2009-2021)



¹ Sample sizes for each survey year are as follows:

2009: 49 completed surveys
 2010: 54 completed surveys
 2011: 46 completed surveys
 2012: 46 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 18 completed surveys for questions 2c through 2g
 2013: 30 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 15 completed surveys for questions 2c through 2g
 2014: 43 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 18 completed surveys for questions 2c through 2g
 2015: 30 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 12 completed surveys for questions 2c through 2g
 2016: 25 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 12 completed surveys for questions 2c through 2g
 2017: 30 completed surveys for questions 2a, 2b, 2h, 2i, and 2j; 18 completed surveys for questions 2c through 2g

2018: 27 completed surveys
 2019: 23 completed surveys
 2020: 25 completed surveys
 2021: 24 completed surveys

² NA = Not Applicable, since questions and responses are not comparable to the 2021 questions.