

and other actions required by applicable Federal environmental laws and regulations for highway projects in Utah, pursuant to 23 U.S.C. 327. Actions taken by UDOT on FHWA's behalf pursuant to 23 U.S.C. 327 constitute Federal agency actions for purposes of Federal law. Notice is hereby given that UDOT has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the Parley's Interchange I-80/I-215 Eastside project in the State of Utah.

On August 11, 2020, UDOT approved a Final Environmental Impact Statement (EIS) and Record of Decision (ROD) for Parley's Interchange I-80/I-215 Eastside, Salt Lake County, Utah, Project No. S-R299(260). In the ROD, UDOT approved Alternative B (the Selected Alternative) as described in the EIS. The approved project consists of highway improvements to meet projected traffic demands and to improve public safety at the Parley's Interchange (I-80/I-215 eastside interchange) in Salt Lake County, Utah. The primary purposes of the project are to improve the level of service (LOS) of the interchange to LOS D or better in the 2050 design year; to improve overall mobility by reducing travel delays through the interchange as compared to no-action conditions; and to improve safety by addressing obsolete design elements and alleviating traffic backup into the main and auxiliary lanes of I-80 and I-215.

The highway improvements approved in the ROD generally consist of the removal, replacement and/or modification of ramps and the addition or modification of travel lanes within an interchange area including and bounded by the I-80/2300 East interchange on the west, the I-215/3300 South interchange on the south, the Parley's Drive/Wilshire Drive and the Foothill Drive/Stringham Avenue intersections on the north, and the I-80 westbound-to-I-215 southbound ramp near the mouth of Parley's Canyon on the east. The project is included in Needs Phase 1/Financially Constrained Phase 2 (Project ID R-S-209) of the Wasatch Front Regional Council's 2019-2050 Regional Transportation Plan.

The actions by UDOT, and the laws under which such actions were taken, are described in the EIS and the ROD and other documents in the UDOT project records. The EIS and ROD are available for review by contacting UDOT at the address provided above. In addition, these documents can be viewed and downloaded from the project website at [www.parleyseis.com](http://www.parleyseis.com).

This notice applies to the EIS, the ROD, the NHPA Section 106 review, the Endangered Species Act determination,

the Section 4(f) determination, the Section 6(f) Land and Water Conservation Act determination, the noise review and noise abatement determination, the air quality conformity determinations, and all other UDOT and Federal agency decisions and other actions with respect to the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to the following laws (including their implementing regulations):

1. General: National Environmental Policy Act [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128]; MAP-21, the Moving Ahead for Progress in the 21st Century Act [Pub. L. 112-141].

2. Air: Clean Air Act [42 U.S.C. 7401-7671(q)].

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Section 6(f) of the Land and Water Conservation Fund Act [54 U.S.C. 200305]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. Wildlife: The Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703-712]; The Bald and Golden Eagle Protection Act [16 U.S.C. 668].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251-1377]; Coastal Barrier Resources Act [16 U.S.C. 3501-3510]; Coastal Zone Management Act [16 U.S.C. 1451-1465]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; TEA-21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(M), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986; Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. Noise: Federal-Aid Highway Act of 1970, Public Law 91-605 [84 Stat. 1713]; [23 U.S.C. 109(h) & (i)].

10. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139 (l)(1).

Issued on: September 10, 2020.

**Ivan Marrero,**

*Division Administrator, Federal Highway Administration, Salt Lake City, Utah.*

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**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2020-0012]

#### Surface Transportation Project Delivery Program; Utah Department of Transportation Audit Report

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).  
**ACTION:** Notice; request for comment.

**SUMMARY:** The Moving Ahead for Progress in the 21st Century Act (MAP-21) established the Surface Transportation Project Delivery Program that allows a State to assume FHWA's responsibilities for environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) for Federal highway projects. When a State assumes these Federal NEPA responsibilities, the State becomes solely responsible and liable for carrying out the responsibilities it has assumed, in lieu of FHWA. This program mandates annual audits during

each of the first 4 years of State participation to ensure compliance with program requirements. This notice announces and solicits comments on the third audit report for the Utah Department of Transportation (UDOT).

**DATES:** Comments must be received on or before October 19, 2020.

**ADDRESSES:** Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590. You may also submit comments electronically at [www.regulations.gov](http://www.regulations.gov). All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone can search the electronic form of all comments in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). The DOT posts these comments, without edits, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Ms. Lana Lau, Office of Project Development and Environmental Review, (202) 366-2052, [Lana.Lau@dot.gov](mailto:Lana.Lau@dot.gov), or Mr. Jay Payne, Office of the Chief Counsel, (202) 366-4241, [James.o.Payne@dot.gov](mailto:James.o.Payne@dot.gov), Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An electronic copy of this notice may be downloaded from the specific docket page at [www.regulations.gov](http://www.regulations.gov).

**Background**

The Surface Transportation Project Delivery Program, codified at 23 U.S.C. 327, commonly known as the NEPA Assignment Program, allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal highway

projects. When a State assumes these Federal responsibilities, the State becomes solely liable for carrying out the responsibilities it has assumed, in lieu of FHWA. The UDOT published its application for NEPA assumption on October 9, 2015, and made it available for public comment for 30 days. After considering public comments, UDOT submitted its application to FHWA on December 1, 2015. The application served as the basis for developing a memorandum of understanding (MOU) that identified the responsibilities and obligations that UDOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on November 16, 2016, with a 30-day comment period to solicit the views of the public and Federal agencies. After the close of the comment period, FHWA and UDOT considered comments and proceeded to execute the MOU. Effective January 17, 2017, UDOT assumed FHWA's responsibilities under NEPA, and the responsibilities for NEPA-related Federal environmental laws described in the MOU.

Section 327(g) of title 23, U.S.C., requires the Secretary to conduct annual audits to ensure compliance with the MOU during each of the first 4 years of State participation and, after the fourth year, monitor compliance. This section also requires FHWA to make the audit available for public comment. The FHWA published the first audit report of UDOT compliance on September 17, 2018, and published the second report on November 13, 2019. This notice announces the availability of the third audit report for UDOT and solicits public comments.

**Authority:** Section 1313 of Public Law 112-141; Section 6005 of Public Law 109-59; 23 U.S.C. 327; 23 CFR 773.

**Nicole R. Nason,**

*Administrator, Federal Highway Administration.*

**Surface Transportation Project Delivery Program; Draft FHWA Audit of the Utah Department of Transportation; July 1, 2018–June 30, 2019**

**Executive Summary**

This report summarizes the results of the Federal Highway Administration's (FHWA) third audit of the Utah Department of Transportation's (UDOT) National Environmental Policy Act (NEPA) review responsibilities and obligations that FHWA has assigned and UDOT has assumed pursuant to 23 U.S.C. 327. Throughout this report, FHWA uses the term "NEPA Assignment Program" to refer to the program codified at 23 U.S.C. 327. Pursuant to 23 U.S.C. 327, UDOT and

FHWA executed a memorandum of understanding (MOU) on January 17, 2017, to memorialize UDOT's NEPA responsibilities and liabilities for Federal-aid highway projects and certain other FHWA approvals in Utah. The section 327 MOU covers environmental review responsibilities for projects that require the preparation of environmental assessments (EA), environmental impact statements (EIS), and non-designated documented categorical exclusions (DCE). A separate MOU, pursuant to 23 U.S.C. 326, authorizes UDOT's environmental review responsibilities for other categorical exclusions (CE), commonly known as CE Program Assignment. This audit does not cover the UDOT's CE Program Assignment MOU responsibilities and projects.

As part of FHWA's review responsibilities under 23 U.S.C. 327, FHWA formed a team (the "Audit Team") in June 2019 to plan and conduct an audit of NEPA responsibilities UDOT assumed. The Audit Team conducted an on-site review during the week of October 7 to October 10, 2019. Prior to the on-site visit, the Audit Team reviewed UDOT's NEPA project files, UDOT's response to FHWA's pre-audit information request (PAIR), UDOT's NEPA Assignment Self-Assessment Report, UDOT's NEPA Quality Assurance/Quality Control (QA/QC) Guidance, and UDOT's NEPA Assignment Training Plan. The Audit Team conducted interviews with four members of UDOT central office staff, three of UDOT's legal counsel (one Assistant Attorney General (AG) assigned to UDOT and two outside counsel), and seven staff members from the U.S. Army Corps of Engineers (USACE) as part of this on-site review.

Overall, the Audit Team found that UDOT continues to successfully carry out its DCE, EA, and EIS project review responsibilities. In the first and second audits, the FHWA Audit Team observed inconsistent understanding of QA/QC procedures among UDOT staff and lack of adherence to its QA/QC procedures. In the third audit, the Audit Team found that UDOT has made efforts to respond to FHWA findings of the second audit, including improving document management and QA/QC procedures. The Audit Team also found that UDOT issued an environmental document without a final legal sufficiency finding, and observed that there were some ways UDOT could improve their training.

The Audit Team identified one non-compliance observation, one observation, and several successful practices. Overall, UDOT has carried out the environmental responsibilities it

assumed through the MOU and the application for the NEPA Assignment Program, and as such the Audit Team finds UDOT is substantially compliant with the provisions of the MOU.

### Background

The NEPA Assignment Program allows a State to assume FHWA's environmental responsibilities for review, consultation, and compliance for Federal-aid highway projects and certain FHWA approvals. Under 23 U.S.C. 327, a State that assumes these Federal responsibilities becomes solely responsible and solely liable for carrying them out. Effective January 17, 2017, UDOT assumed FHWA's responsibilities under NEPA and other related environmental laws. Examples of responsibilities UDOT has assumed in addition to NEPA include section 7 consultation under the Endangered Species Act and consultation under section 106 of the National Historic Preservation Act.

Following this third audit, FHWA will conduct one more annual audit to satisfy provisions of 23 U.S.C. 327(g) and Part 11 of the MOU. Audits are the primary mechanism through which FHWA may oversee UDOT's compliance with the MOU and the NEPA Assignment Program requirements. This includes ensuring compliance with applicable Federal laws and policies, evaluating UDOT's progress toward achieving the performance measures identified in MOU Section 10.2, and collecting information needed for the Secretary's annual report to Congress. The FHWA must present the results of each audit in a report and make it available for public comment in the **Federal Register**.

The Audit Team consisted of NEPA subject matter experts from the FHWA Utah Division, as well as additional FHWA Division staff from California, Georgia, Alaska, and FHWA Headquarters. These experts received training on how to evaluate implementation of the NEPA Assignment Program.

### Scope and Methodology

The MOU (Part 3.1.1) states that "[p]ursuant to 23 U.S.C. 327(a)(2)(A), on the Effective Date, FHWA assigns, and UDOT assumes, subject to the terms and conditions set forth in 23 U.S.C. 327 and this MOU, all of the USDOT Secretary's responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* with respect to the highway projects specified under subpart 3.3. This assignment includes statutory provisions, regulations, policies, and

guidance related to the implementation of NEPA for highway projects such as 23 U.S.C. 139, 40 CFR parts 1500–1508, DOT Order 5610.1C, and 23 CFR 771 as applicable." Also, the performance measure in MOU Part 10.2.1(A) for compliance with NEPA and other Federal environmental statutes and regulations commits UDOT to maintaining documented compliance with requirements of all applicable statutes and regulations, as well as provisions in the MOU.

The Audit Team conducted an examination of UDOT's NEPA project files, UDOT's responses to the PAIR, and UDOT's self-assessment. The audit also included interviews with staff and reviews of UDOT policies, guidance, and manuals pertaining to NEPA responsibilities. All reviews focused on objectives related to the six NEPA Assignment Program elements: Program management; documentation and records management; QA/QC; legal sufficiency; training; and performance measurement.

The focus of the audit was on UDOT's process and program implementation. Therefore, while the Audit Team reviewed project files to evaluate UDOT's NEPA process and procedures, the Audit Team did not evaluate UDOT's project-specific decisions to determine if they were, in FHWA's opinion, appropriate or not. The Audit Team reviewed 11 NEPA Project files with DCEs, EAs, and EISs, representing all projects with decision points or other actionable items between July 1, 2018, and June 30, 2019. The Audit Team also interviewed environmental staff in UDOT's headquarters office.

The PAIR consisted of 26 questions about specific elements in the MOU. The Audit Team used UDOT's response to the PAIR to develop specific follow-up questions for the on-site interviews with UDOT staff.

The Audit Team conducted four in-person interviews with UDOT environmental staff, one in-person interview with seven staff members of the USACE, two phone interviews with UDOT's outside legal counsel, and one phone interview with legal counsel from the Utah Attorney General's office.

Throughout the document reviews and interviews, the Audit Team verified information on the UDOT NEPA Assignment Program including UDOT policies, guidance, manuals, and reports. This included the NEPA QA/QC Guidance, the NEPA Assignment Training Plan, and the NEPA Assignment Self-Assessment Report.

The Audit Team compared the procedures outlined in UDOT environmental manuals and policies to

the information obtained during interviews and project file reviews to determine if there were discrepancies between UDOT's performance and documented procedures. The Audit Team documented observations under the six NEPA Assignment Program topic areas. Below are the audit results.

### Observations and Successful Practices

This section summarizes the Audit Team's observations of UDOT's NEPA Assignment Program implementation, including successful practices UDOT may want to continue or expand. Successful practices are positive results FHWA would like to commend UDOT for developing. These may include ideas or concepts that UDOT has planned but not yet implemented. Observations are items the Audit Team would like to draw UDOT's attention to, which may benefit from revisions to improve processes, procedures, or outcomes. The UDOT may have already taken steps to address or improve upon the Audit Team's observations, but at the time of the audit they appeared to be areas where UDOT could make improvements. This report addresses all six MOU topic areas as separate discussions. Under each area, this report discusses successful practices followed by observations.

This audit report provides an opportunity for UDOT to implement actions to improve their program. The FHWA will consider the status of areas identified for potential improvement in this audit's observations as part of the scope of Audit #4. The fourth audit report will include a summary discussion that describes progress since the last audit.

#### Program Management

##### Successful Practices

During the kickoff meeting, the Audit Team learned that UDOT has placed the Environmental Services Division under Program Development rather than Project Development. This re-organization helps environmental services align their work with planning staff. The UDOT described their interest in advancing a linking planning and environment approach related to their corridor planning process. The UDOT plans to pilot this approach on some corridors studies. Implementing this linking planning and environment approach could help address new environmental requirements and initiatives to accelerate project delivery. The FHWA and UDOT jointly discussed the opportunity and potential benefits that could result from hosting a peer exchange on this subject. In interviews

with the USACE, the Audit Team learned that they have had recent discussions with UDOT about this type of approach.

Within the last auditing period, UDOT initiated bi-monthly meetings with USACE to discuss upcoming projects. Early coordination with interested agencies can be effective in early identification and resolution of issues, and help to accelerate project delivery. The USACE supports continuing these early coordination efforts. In addition, USACE noted that project managers do a good job of documenting discussions in meetings and sending project-specific meeting notes to them for review and concurrence.

Through interviews with USACE, the Audit Team learned that UDOT consistently monitors the effectiveness of its wetland mitigation as required for permits issued by USACE under Section 404 of the Clean Water Act, and sends timely and complete monitoring reports to the USACE.

The UDOT uses varying methods of communication for its public involvement, which UDOT customizes to the context of each project and the surrounding community. Communication methods include, but are not limited to, one-on-one discussions with the public, emails and phone calls UDOT receives from the public through project websites, neighborhood gatherings, and placing door hangers throughout communities. Public involvement plans evolve throughout the NEPA process, and UDOT environmental and public involvement staff meet as a team to decide how to address public concerns as they arise. Through interviews, the Audit Team learned that UDOT is exploring the use of virtual public involvement strategies on some of its projects, such as the use of videos and mapping tools, as a means of further enhancing public engagement.

#### *Documentation and Records Management*

##### *Successful Practices*

The UDOT continues to improve implementation of its project file system. The UDOT uses ProjectWise as its environmental file system of record for NEPA Assignment Program projects. The folder structure in ProjectWise outlines the potential components of a complete project file that consultants and staff should populate, and UDOT's Environmental Document File Management guidance explains methods for organizing project files. In addition, the Environmental

Performance Manager reviews project folders in ProjectWise to ensure that all project files are organized in accordance with the file structure. These measures have noticeably improved the organization and completeness of project files since the first two audits.

#### *Quality Assurance/Quality Control*

##### *Successful Practices*

The Audit Team learned through the PAIR response and interviews that, in response to Audit #2, UDOT has revised the Environmental Document Review Tool to differentiate requirements for EAs and EISs. The UDOT has also created a new checklist for QA/QC. In interviews, UDOT staff recognized that they may need to further revise procedures to ensure documentation is complete, and stated that they are committed to continuing to revise and implement their process to document legal sufficiency findings on all documents requiring findings in accordance with UDOT's Manual of Instruction (MOI) and QA/QC plan. The UDOT staff's weekly project meetings, as well as their biweekly meetings to talk about issues that arise in the environmental program, are ways they can continue to refine their processes.

#### *Legal Sufficiency*

##### *Successful Practice*

The UDOT Environmental Managers works directly with outside counsel. The UDOT Environmental Managers, an Assistant AG, and outside counsel hold quarterly meetings during which UDOT apprises counsel of upcoming project reviews and anticipated review deadlines. These quarterly meetings are one of UDOT's strategies for keeping the Assistant AG assigned to UDOT apprised of all communications between UDOT staff and outside counsel.

#### *Training*

##### *Observation #1*

The UDOT continues to update its training plan on an annual basis, as required under Section 12.2 of the MOU. During the audit period UDOT provided its staff 12 training opportunities on NEPA and other environmental requirements, in accordance with the training plan. Section 12.2 of the MOU states that "UDOT and FHWA, in consultation with other Federal agencies as deemed appropriate, will assess UDOT's need for training and develop a training plan." During interviews, however, USACE, staff stated they have not had the opportunity to provide input on UDOT's training plan. The USACE

expressed that their staff may benefit from training to better understand UDOT's highway design standards, requirements, and policies. Interagency discussions regarding training needs may identify opportunities for cross-training with the potential to improve interagency communication and coordination, and lead to more efficient permit review and consultation processes.

#### *Performance Measures*

##### *Successful Practices*

The UDOT's self-assessment documented the performance management details of the NEPA Assignment Program in Utah resulted in a reduction in the time needed to complete DCEs, EAs, and EISs. The UDOT's average time to complete environmental documents is 7 months for DCEs, 24 months for EAs, and 37 months for EISs. Although these data are based on a limited number of completed UDOT NEPA reviews since January 2017, UDOT's initial timeliness results are promising.

The UDOT regularly updates their MOI to continuously improve their policies and procedures. During this audit period, UDOT updated their MOI in September 2018. The UDOT has polled resource agencies every year to get feedback on their performance. The UDOT's self-assessment documents that, although they had a lower response rate to their annual resource agency poll this year (24 percent) compared to last year (50 percent), the overall evaluation rating is 4 percent higher than the ratings prior to NEPA assignment. The UDOT recognized that the low response rate may be due to timing (UDOT sent the surveys in the summer and allowed 2 weeks for responses). In interviews with the USACE, the Audit Team heard that the distribution method may also be a factor. The USACE suggested that UDOT find a way to give the survey more visibility (*e.g.*, discuss it at the bimonthly meeting, phone call in advance of the email, have it come from someone they work with regularly).

#### **Non-Compliance Observation**

Non-compliance observations are instances where the Audit Team found UDOT was out of compliance or deficient in proper implementation of a Federal regulation, statute, guidance, policy, the terms of the MOU, or UDOT's own procedures for compliance with the NEPA process. Such observations may also include instances where UDOT has failed to maintain technical competency, adequate personnel, and/or financial resources to

carry out the assumed responsibilities. Other non-compliance observations could suggest a persistent failure to adequately consult, coordinate, or consider the concerns of other Federal, State, Tribal, or local agencies with oversight, consultation, or coordination responsibilities. The FHWA expects UDOT to develop and implement corrective actions to address all non-compliance observations.

The following non-compliance observation relates to UDOT not complying with the State's environmental review procedures.

*Non-Compliance Observation #1—  
Issuing a Document Without Final Legal Sufficiency Finding*

As noted in UDOT's Self-Assessment and confirmed through audit interviews and project file reviews, the Audit Team learned that in the case of one project's individual Section 4(f) evaluation, while outside counsel reviewed and commented on the draft evaluation prior to its release, the project file contained no documentation demonstrating that the required legal sufficiency review was completed pursuant to 23 CFR 771.125(b) and/or 23 CFR 774.7(d) prior to UDOT's approval of the evaluation. This was also not in accordance with UDOT's QA/QC plan, Section 4.1.B, which requires the reviewing attorney provide the Environmental Program Manager with written documentation that the legal sufficiency review has been completed. The UDOT's response to the draft audit report indicated that they have since implemented a standard checklist form, to be completed by legal counsel, to document their project review to clarify the documentation of legal sufficiency reviews.

**Next Steps**

The FHWA provided this draft audit report to UDOT for a 30-day review and comment period. The Audit Team considered UDOT comments in developing this draft audit report. The FHWA will publish a notice in the **Federal Register** for a 30-day comment period in accordance with 23 U.S.C. 327(g)(2)(A). No later than 60 days after the close of the comment period, FHWA will respond to all comments submitted to finalize this draft audit report pursuant to 23 U.S.C. 327(g)(2)(B). Once finalized, FHWA will publish the final audit report in the **Federal Register**.

[FR Doc. 2020-20530 Filed 9-16-20; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2019-0286]

**Parts and Accessories Necessary for Safe Operation; Robert Bosch, LLC and Mekra Lang North America, LLC Application for an Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Transportation (DOT).

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant a limited 5-year exemption to Robert Bosch, LLC and Mekra Lang North America, LLC (Bosch and Mekra Lang) to allow motor carriers to operate commercial motor vehicles (CMVs) with the companies' CV (Commercial Vehicle) Digital Mirror System installed as an alternative to the two rear-vision mirrors required by the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency has determined that granting the exemption would likely achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

**DATES:** This exemption is effective September 17, 2020 and ending September 17, 2025.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-0676; [luke.loy@dot.gov](mailto:luke.loy@dot.gov).

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations. The on-line Federal document management system is available 24 hours each day, 365 days each year.

The docket number is listed at the beginning of this notice.

**SUPPLEMENTARY INFORMATION:**

**Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions

from certain parts of the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**Bosch and Mekra Lang Application for Exemption**

Bosch and Mekra Lang applied for an exemption from 49 CFR 393.80(a) to allow its CV Digital Mirror System to be installed as an alternative to the two rear-vision mirrors required on CMVs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.80(a) of the FMCSRs requires that each bus, truck, and truck-tractor be equipped with two rear-vision mirrors, one at each side. The mirrors must be positioned to reflect to the driver a view of the highway to the rear and the area along both sides of the CMV. Section 393.80(a) cross-references the National Highway Traffic Safety Administration's (NHTSA) standards for mirrors on motor vehicles (49 CFR 571.111, Federal Motor Vehicle Safety Standard [FMVSS] No. 111). Paragraph S7.1 of FMVSS No. 111 provides requirements for mirrors on multipurpose passenger vehicles and trucks with a gross vehicle weight rating (GVWR) greater than 4,536 kg and less than 11,340 kg and each bus, other than a school bus, with a GVWR of more than 4,536 kg. Paragraph S8.1 provides requirements for mirrors on multipurpose passenger vehicles and trucks with a GVWR of 11,340 kg or more.

The CV Digital Mirror System consists of multiple digital cameras firmly