

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[Docket No. FRA-2022-0620]

**Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Pilot Certification and Qualification Requirements for Air Carrier Operations****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 10, 2022. The collection involves FAA review of Airline Transport Pilot (ATP) Certification Training Program (CTP) submittals to determine that the program complies with the applicable requirements. It also involves FAA review of an institution of higher education's application for the authority to certify its graduates meet the minimum regulatory requirements.

**DATES:** Written comments should be submitted by December 5, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Sandra L. Ray by email at: [Sandra.ray@faa.gov](mailto:Sandra.ray@faa.gov); phone: 412-329-3088.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

*OMB Control Number:* 2120-0755.

*Title:* Pilot Certification and Qualification Requirements for Air Carrier Operations.

*Form Numbers:* None.

*Type of Review:* Renewal of an information collection.

*Background:* The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 10, 2022 (87 FR 28098). FAA aviation safety inspectors review the Airline Transport Pilot (ATP) Certification Training Program (CTP) submittals to determine that the program complies with the applicable requirements of 14 CFR 61.156. The programs that comply with the minimum requirements receive approval to begin offering the course to applicants for an ATP certificate with a multiengine class rating or an ATP certificate obtained concurrently with an airplane type rating. FAA aviation inspectors also review an institution of higher education's application for the authority to certify its graduates meet the minimum requirements of 14 CFR 61.160. The institutions of higher education that receive a letter of authorization for their degree program(s) are authorized to place a certifying statement on a graduates' transcript indicating he or she is eligible for a restricted privileges ATP certificate.

*Respondents:* Varies per requirement.

*Frequency:* Varies per requirement.

*Estimated Average Burden per*

*Response:* Varies per requirement.

*Estimated Total Annual Burden:* 1,301 Hours.

Issued in Washington, DC, on October 31, 2022.

**Sandra L. Ray,**

*Aviation Safety Inspector, AFS-200.*

[FR Doc. 2022-23907 Filed 11-2-22; 8:45 am]

**BILLING CODE 4910-13-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), Department of Transportation (DOT).

**ACTION:** Notice.

**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 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 finalizes the findings of the third audit report for the Utah Department of Transportation (UDOT).

**FOR FURTHER INFORMATION CONTACT:** Mr. David Cohen, Office of Project Development and Environmental Review, (202) 366-8531, [David.Cohen@dot.gov](mailto:David.Cohen@dot.gov), or Mr. Patrick Smith, Office of the Chief Counsel, (202) 366-1345, [Patrick.C.Smith@dot.gov](mailto:Patrick.C.Smith@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 United States Code (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 in lieu of the 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 identifies 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 end 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 other Federal environmental laws described in the MOU.

Section 327(g) of Title 23, U.S.C., requires the Secretary to conduct annual audits during each of the first 4 years of State participation. After the fourth year, the Secretary shall monitor the State's compliance with the written agreement. The results of each audit must be made available for public comment. This notice finalizes the findings of the third audit report for UDOT participation in the NEPA Assignment program. The FHWA published a draft version of this report in the **Federal Register** on September 17, 2020, and made it available for public review and comment for 30 days in accordance with 23 U.S.C. 327(g). The FHWA received one response to the **Federal Register** notice during the public comment period for the draft report. The only response, from the American Road and Transportation Builders Association, outlined their general support for the NEPA Assignment program to accelerate Federal-aid highway program and project delivery. The FHWA determined that the comment required no changes to the draft report. This notice finalizes the third NEPA Assignment audit report in Utah.

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

**Stephanie Pollack,**

*Acting Administrator, Federal Highway Administration.*

### **Surface Transportation Project Delivery Program**

### **FHWA Audit of the Utah Department of Transportation—Final Report**

**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 assigned and UDOT assumed pursuant to 23 United States Code (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. The scope of this audit did not include the CE Program Assignment 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 carry out the assigned environmental review and transportation decisionmaking responsibilities successfully. The UDOT has made efforts to respond to the FHWA findings from the second audit, including improving document management and QA/QC procedures. 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 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 and one observation as well as several successful practices. The Audit Team found UDOT has been carrying out the responsibilities it has assumed in compliance with the provisions of the Section 327 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 other FHWA actions. 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 Federal 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.

After this third audit, FHWA conducted the fourth and last annual audit in November 2020 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 environmental 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. The subject matter experts received training on how to assess UDOT's compliance and assess the levels of accomplishment associated with the implementation of the NEPA Assignment Program in Utah.

### **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.

Overall, UDOT successfully carried out the environmental responsibilities it had assumed through the MOU and the application for the NEPA Assignment Program, and, as such, the Audit Team found UDOT was substantially compliant with the provisions of the MOU.

### **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 considered 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 UDOT’s progress since this third 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 helped 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 UDOT’s project managers were diligent and effective in 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 had consistently monitored the effectiveness of its wetland mitigation as required for permits issued by USACE under Section 404 of the Clean Water Act, and they sent 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 had revised the Environmental Document Review Tool to differentiate requirements for EAs and EISs. The UDOT had 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 work 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, which demonstrates UDOT's procedures under NEPA assignment have resulted in a reduction in the time needed to complete DCEs, EAs, and EISs. The 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.

#### **Response to Public Comments on the Draft Report and the Final Report**

The FHWA received one comment from the American Road & Transportation Builders Association (ARTBA) in general support of UDOT's implementation of the NEPA Assignment Program to accelerate Federal-aid highway program and project delivery in Utah. The FHWA appreciates ARTBA's input and determined that there is no need to revise the draft audit report in response to ARTBA's comment. Therefore, FHWA is finalizing UDOT's third NEPA

Assignment audit report with this **Federal Register** notice.

[FR Doc. 2022-23914 Filed 11-2-22; 8:45 am]

BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA-2021-0019]

#### Surface Transportation Project Delivery Program; Alaska Department of Transportation Fourth Audit Report

**AGENCY:** Federal Highway Administration (FHWA), 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 environmental responsibilities for environmental review, consultation, and compliance under the National Environmental Policy Act (NEPA) for Federal highway projects. When a State assumes these Federal 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 fourth audit report for the Alaska Department of Transportation and Public Facilities (DOT&PF).

**DATES:** Comments must be received on or before December 5, 2022.

**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:** Mr. David T. Williams, Office of Project Development and Environmental Review, (202) 366-5074, [David.Williams@dot.gov](mailto:David.Williams@dot.gov), or Mr. Patrick Smith, Office of the Chief Counsel, (202) 366-1345, [Patrick.C.Smith@dot.gov](mailto:Patrick.C.Smith@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 Alaska DOT&PF published its application for NEPA assumption on May 1, 2016; and made it available for public comment for 30 days. After considering public comments, DOT&PF submitted its application to FHWA on July 12, 2016. The application served as the basis for developing a memorandum of understanding (MOU) that identified the responsibilities and obligations that DOT&PF would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on August 25, 2017, 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 DOT&PF considered comments and proceeded to execute the MOU. Effective November 13, 2017, DOT&PF 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. The FHWA must make the results of each audit available for public comment. The FHWA published a notice regarding the third audit report in the **Federal Register** on December 7, 2020, soliciting comments for 30 days pursuant to 23 U.S.C. 327(g). The FHWA received comments on the draft report from the American Road & Transportation Builders Association (ARTBA). The ARTBA's comments were supportive of the Surface Transportation Project Delivery Program and did not relate specifically to the audit. The team has considered these comments and is finalizing the audit report. This notice announces the availability of the fourth audit report to the DOT&PF and solicits public comment on the same.

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

##### Stephanie Pollack,

*Deputy Administrator, Federal Highway Administration.*

#### Surface Transportation Project Delivery Program, FHWA's Audit of the Alaska Department of Transportation

April 12-16, 2021

##### Executive Summary

This report summarizes the results of the Federal Highway Administration's (FHWA) fourth audit of the Alaska Department of Transportation and Public Facilities' (DOT&PF) assumption of FHWA's project-level National Environmental Policy Act (NEPA) responsibilities and obligations pursuant to a 23 U.S.C. 327 Memorandum of Understanding (MOU). The DOT&PF entered the NEPA Assignment Program after more than 8 years of experience making FHWA NEPA Categorical Exclusion (CE) determinations pursuant to 23 U.S.C. 326 (beginning September 22, 2009).

Alaska's MOU became effective on November 13, 2017; and was amended on August 20, 2020. Currently, FHWA's NEPA responsibilities in Alaska include the oversight and auditing of the DOT&PF's execution of the NEPA Assignment Program and certain activities excluded from the MOU, such as the NEPA reviews of projects advanced by direct recipients other than the DOT&PF.

The FHWA audit team began to prepare for the site visit in November 2020. The audit team reviewed DOT&PF's NEPA project files, DOT&PF's response to FHWA's pre-