

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Waiver of Aeronautical Land Use Assurance: Wellington Municipal Airport (EGT), Wellington, KS**

**AGENCY:** Federal Aviation Administration (FAA), Transportation (DOT).

**ACTION:** Notice of intent of waiver with respect to land use change from aeronautical to non-aeronautical.

**SUMMARY:** The Federal Aviation Administration (FAA) is considering a proposal from the City of Wellington, KS, to release a 0.01 acre parcel of land from the federal obligation dedicating it to aeronautical use and to authorize this parcel to be used for revenue-producing, non-aeronautical purposes.

**DATES:** Comments must be received on or before December 6, 2021.

**ADDRESSES:** Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE-620G, 901 Locust, Room 364, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Matt Wiebe, Airport Manager, Wellington Municipal Airport, 317 S. Washington, Wellington, KS 67152, (620) 440-2213.

**FOR FURTHER INFORMATION CONTACT:** Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE-620G, 901 Locust Room 364, Kansas City, MO 64106, Telephone number (816) 329-2603, Fax number (816) 329-2611, email address: [amy.walter@faa.gov](mailto:amy.walter@faa.gov).

**SUPPLEMENTARY INFORMATION:** The FAA invites public comment on the request to change a 0.01 acre parcel of airport property at the Wellington Municipal Airport (EGT) from aeronautical use to non-aeronautical for revenue producing use. This parcel will be leased to a GKN Aerospace Precision Machining, a current tenant, to construct a 25 ft. x 25 ft. storm shelter.

No airport landside or airside facilities are presently located on this parcel, nor are airport developments contemplated in the future. There is no current use of the surface of the parcel. The parcel will serve as a revenue producing lot with the proposed change from aeronautical to non-aeronautical. The request submitted by the Sponsor meets the procedural requirements of the Federal Aviation Administration and the change to non-aeronautical

status of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this Notice.

The following is a brief overview of the request:

The Wellington Municipal Airport (EGT) is proposing the use release of a 0.01 acre parcel of land from aeronautical to non-aeronautical. The use release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The rental of the subject property will result in the land at the Wellington Municipal Airport (EGT) being changed from aeronautical to non-aeronautical use and release the lands from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances. In accordance with 49 U.S.C. 47107(c) (2) (B) (i) and (iii), the airport will receive fair market rental value for the property. The annual income from rent payments will generate a long-term, revenue-producing stream that will further the Sponsor's obligation under FAA Grant Assurance number 24, to make the Wellington Municipal Airport as financially self-sufficient as possible.

Any person may inspect, by appointment, the request in person at the FAA office listed above. In addition, any person may upon request, inspect the application, notice and other documents determined by the FAA to be related to the application in person at the Wellington Municipal Airport.

Issued in Kansas City, MO, on October 27, 2021.

**James A. Johnson,**

*Director, FAA Central Region, Airports Division.*

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**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration**

[FHWA Docket No. FHWA-2020-0020]

**Surface Transportation Project Delivery Program; Arizona Department of Transportation Final FHWA 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 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 four years of State participation to ensure compliance with program requirements. This is the first audit of the Arizona Department of Transportation's (ADOT) performance of its responsibilities under the Surface Transportation Project Delivery Program (NEPA Assignment Program). This notice finalizes the first audit report for ADOT.

**FOR FURTHER INFORMATION CONTACT:** Mr. Neel Vanikar, Office of Project Development and Environmental Review, (202) 366-2068, [neel.vanikar@dot.gov](mailto:neel.vanikar@dot.gov), Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 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., Eastern Standard Time, 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), from the Office of the Federal Register's website at [www.FederalRegister.gov](http://www.FederalRegister.gov), or from the Government Publishing Office's website at [www.GovInfo.gov](http://www.GovInfo.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 ADOT published its application for NEPA assumption on June 29, 2018, and solicited public

comment. After considering public comments, ADOT submitted its application to FHWA on November 16, 2018. The application served as the basis for developing a Memorandum of Understanding (MOU) that identifies the responsibilities and obligations that ADOT would assume. The FHWA published a notice of the draft MOU in the **Federal Register** on February 11, 2019, at 84 FR 3275, 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 ADOT considered comments and proceeded to execute the MOU. Effective April 16, 2019, ADOT 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 four years of State participation and, after the fourth year, monitor compliance. The FHWA must make the results of each audit available for public comment. This notice finalizes the first audit report for ADOT.

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

**Stephanie Pollack,**

*Acting Administrator, Federal Highway Administration.*

## **Surface Transportation Project Delivery Program Final FHWA Audit #1 of the Arizona Department of Transportation**

### **Executive Summary**

This is Audit #1 of the Arizona Department of Transportation's (ADOT) assumption of National Environmental Policy Act (NEPA) responsibilities under the Surface Transportation Project Delivery Program. Under the authority of 23 U.S.C. 327, ADOT and the Federal Highway Administration (FHWA) executed a memorandum of understanding (MOU) on April 16, 2019, to memorialize ADOT's NEPA responsibilities and liabilities for Federal-aid highway projects and other related environmental reviews for highway projects in Arizona. This 23 U.S.C. 327 MOU covers environmental review responsibilities for projects that require the preparation of environmental assessments (EA), environmental impact statements (EIS), and non-designated individual categorical exclusions. A separate MOU between FHWA and ADOT, pursuant to 23 U.S.C. 326, authorizes environmental review responsibilities for other categorical exclusions (CE). This audit

does not cover the CE responsibilities and projects assigned to ADOT under the 23 U.S.C. 326 MOU.

The FHWA conducted an audit of ADOT's performance according to the terms of the MOU March 9-12, 2020. Prior to the audit, the FHWA audit team held internal meetings to prepare for an on-site visit to the Arizona Division and ADOT offices. Prior to the on-site visit, the audit team reviewed ADOT's environmental manuals and procedures, NEPA project files, ADOT's response to FHWA's pre-audit information request (PAIR), and ADOT's NEPA Assignment Self-Assessment Report. During the March 2020 audit, the audit team conducted interviews with staff from ADOT Environmental Planning (EP) and ADOT's external partners, and prepared preliminary audit results. The audit team presented these preliminary results to ADOT EP leadership on March 12, 2020.

Overall, the audit team found that ADOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and ADOT's application. The ADOT continues to develop, revise, and implement procedures and processes required to deliver its NEPA Assignment Program. This report describes several observations and successful practices. Through this report, FHWA is notifying ADOT of two non-compliance observations that require ADOT to take corrective action. By addressing the observations in this report, ADOT will continue to assure successful program assignment.

### **Background**

The purpose of the audits performed under the authority of 23 U.S.C. 327 is to assess a State's compliance with the provisions of the MOU as well as all applicable Federal statutes, regulations, policies, and guidance. The FHWA's review and oversight obligation entails the need to collect information to evaluate the success of the NEPA Assignment Program; to evaluate a State's progress toward achieving its performance measures as specified in the MOU; and to collect information for the administration of the NEPA Assignment Program. This report summarizes the results of the first audit in Arizona and ADOT's progress towards meeting the program review objectives identified in the MOU. Following this audit, FHWA will conduct three additional annual NEPA Assignment Program audits in Arizona.

### **Scope and Methodology**

The overall scope of this audit review is defined both in statute (23 U.S.C. 327)

and the MOU (Part 11). The definition of an audit is one where an independent unbiased body makes an official and careful examination and verification of accounts and records, especially of financial accounts. Auditors who have special training with regard to accounts or financial records may follow a prescribed process or methodology in conducting an audit of those processes or methods. The FHWA considers its review to meet the definition of an audit because it is an unbiased, independent, official, and careful examination and verification of records and information about ADOT's assumption of environmental responsibilities.

The audit team consisted of NEPA subject matter experts (SME) from FHWA Headquarters and Resource Center, as well as staff from FHWA's Arizona Division. This audit is an unbiased official action taken by FHWA, which included an audit team of diverse composition, and followed an established process for developing the review report and publishing it in the **Federal Register**.

The audit team reviewed six NEPA Assignment Program elements: program management; documentation and records management; quality assurance/quality control (QA/QC); performance measures; legal sufficiency; and training. The audit team considered three additional focus areas for this review: project-level conformity procedures; Section 4(f) procedures; and public involvement procedures.

The audit team conducted a careful examination of ADOT policies, guidance, and manuals pertaining to NEPA responsibilities, as well as a representative sample of ADOT's project files. Other documents, such as ADOT's PAIR responses and ADOT's Self-Assessment Report, also informed this review. In addition, the audit team interviewed staff from ADOT EP and ADOT's external partners, both in person and via teleconference.

The timeframe defined for this first audit includes highway project environmental approvals completed between April 16, 2019, and December 31, 2019. During this timeframe, ADOT completed NEPA approvals and documented NEPA decision points for 12 projects. Due to the small sample size, the audit team reviewed all 12 projects. This consisted of four Individual CEs, one EA with a Finding of No Significant Impact (FONSI), two draft EAs, one EA initiated with scoping completed, one draft EIS, and three EA re-evaluations.

The PAIR submitted to ADOT contained 23 questions covering all six NEPA Assignment Program elements.

The audit team developed specific follow-up questions for the on-site interviews with ADOT staff based on ADOT responses to the PAIR.

The audit team conducted a total of 17 interviews. Interview participants included staff from ADOT EP, Arizona Attorney General's Office (AGO), Environmental Protection Agency (EPA) Region 9, Arizona Game and Fish Department (AZGFD), Maricopa Association of Governments (MAG), and the City of Phoenix.

The audit team compared ADOT manuals and procedures to the information obtained during interviews and project file reviews to determine if ADOT's performance of its MOU responsibilities is in accordance with ADOT procedures and Federal requirements. The audit team documented individual observations and successful practices during the interviews and reviews and combined these under the six NEPA Assignment Program elements. The audit results are described below by program element.

### Overall Audit Opinion

The audit team found ADOT has carried out the responsibilities it has assumed consistent with the intent of the MOU and ADOT's application. The FHWA is notifying ADOT of two non-compliance observations that require ADOT to take corrective action. By addressing the observations cited in this report, ADOT will continue to assure a successful program.

### Successful Practices and Observations

Successful practices are practices that the team believes are positive, and encourages ADOT to consider continuing or expanding those programs in the future. The audit team identified numerous successful practices in this report.

Observations are items the audit team would like to draw ADOT's attention to, which may improve processes, procedures, and/or outcomes. The team identified three observations in this report.

Non-compliance observations are instances where the audit team finds the State is not in compliance or is deficient with regard to a Federal regulation, statute, guidance, policy, State procedure, or the MOU. Non-compliance may also include instances where the State has failed to secure or maintain adequate personnel and/or financial resources to carry out the responsibilities they have assumed. The FHWA expects the State to develop and implement corrective actions to address all non-compliance observations. The

audit team identified two non-compliance observations in this report.

The audit team shared initial results during the site visit closeout and shared the draft audit report with ADOT to provide them the opportunity to clarify any observation, as needed, and/or begin implementing corrective actions to improve the program. The FHWA will consider actions taken by ADOT to address these observations as part of the scope of the second audit.

### Successful Practices and Observations Program Management

#### *Successful Practices*

The ADOT EP has developed several detailed guidance manuals for implementing NEPA Assignment and evaluating environmental resources. These manuals are readily available online at ADOT's environmental website. The ADOT continuously updates their manuals and has a process for tracking updates by including a list of changes as an appendix in each version. Several staff members stated they regularly consult the guidance manuals and are informed of updates.

The ADOT EP has developed internal procedures for resolving and escalating conflicts. The ADOT Project Development Procedures Manual describes these escalation procedures. The ADOT has found this to be an effective tool to assist in evaluating controversial issues, identifying appropriate levels of communication, and determining the best approach for dispute resolution.

During interviews with staff, the audit team learned that ADOT EP makes a considerable effort at internal communication and coordination through meetings, emails, and informal interaction. The staff holds weekly and monthly meetings for environmental planners and technical groups to discuss project issues, address program-level questions, and update staff on guidance. Interviewed staff said they were well-informed about procedures and comfortable discussing complex situations with team leads and technical experts. In addition, ADOT EP attends partnering/preconstruction meetings with other ADOT sections to convey environmental commitments and to stay informed of project changes.

During interviews, EPA, AZGFD, and the City of Phoenix commented on ADOT EP's collaboration and communication efforts with them. The EPA was appreciative of ADOT EP holding bi-monthly coordination meetings to discuss the status of projects and commented on their much-improved relationship with ADOT. The

AZGFD acknowledged and appreciated the opportunities to provide input through the outreach efforts of ADOT biologists on projects with wildlife concerns. The City of Phoenix noted ADOT's improved communication with local governments and efforts to increase flexibility in the environmental review process. The audit team recognizes ADOT EP's outreach efforts with these external partners. One area identified by the audit team in need of improved collaboration is project-level conformity determinations, where legal responsibility remains assigned to FHWA.

#### *Observations*

##### Non-Compliance Observation #1: Incomplete Project Files Submission

For this audit, pursuant to MOU Sections 8.2.2 and 8.2.3, FHWA requested all project files pertaining to the NEPA approvals and documented NEPA decision points completed during the audit review period. The request specified the approved NEPA document and all supporting documentation related to the decision milestones, such as consultation letters, technical memos, and resource evaluations (email to ADOT November 26, 2019). The FHWA provided additional clarification to ADOT regarding the types of NEPA approvals and NEPA decision documents that ADOT should submit (email to ADOT December 18, 2019).

The audit team found several inconsistencies between ADOT's procedures for maintaining project files (as identified in the ADOT CE Checklist Manual, ADOT EA/EIS Manual, ADOT QA/QC Plan, and ADOT Project Development Procedures Manual) and the project file documentation provided to FHWA. The ADOT's procedures specify utilizing a standard folder structure for all projects and saving all project documentation and supporting information in the project files. However, the project files submitted by ADOT for this audit were incomplete and did not include all supporting documentation. The project files that ADOT submitted consisted primarily of final decision documents and, in most cases, did not include correspondence, internal communication, technical memos/reports, or other types of information to support NEPA decisions or demonstrate how ADOT evaluated resources.

The audit team learned during interviews that ADOT EP management created a duplicate project file for each project which consisted of a subset of their project files. Due to the incomplete project files, it is unclear how ADOT is

maintaining electronic project files and administrative records, and how ADOT is complying with its procedures and the terms of the 23 U.S.C. 327 MOU as they apply to records retention. The audit team determined that ADOT EP management made the decision to not submit all requested project files for review by FHWA as required by the MOU (Section 8.2.3). In the last 23 U.S.C. 326 MOU monitoring review, FHWA observed this same practice and informed ADOT that such a practice was in non-compliance with the MOU. Just as that practice was in non-compliance with the 23 U.S.C. 326 MOU, this practice is also in non-compliance with the 23 U.S.C. 327 MOU.

#### Observation #1: Use of the Federal Infrastructure Permitting Dashboard

The ADOT is responsible for inputting project information for assigned projects into the Federal Infrastructure Permitting Dashboard, per MOU Section 8.5.1. During the audit, the audit team reviewed the Permitting Dashboard and found that it did not include information for any of the applicable projects assigned to ADOT. The audit team confirmed during interviews that ADOT has not updated the dashboard. The audit team acknowledges that ADOT is working with FHWA to obtain access to the dashboard and address this issue.

#### Documentation and Records Management

The audit team reviewed 12 projects as part of this audit. This consisted of four Individual CEs, one EA with a FONSI, two draft EAs, one EA initiated with scoping completed, one draft EIS, and three EA re-evaluations.

#### Successful Practices

The ADOT EP has developed several standard templates (e.g., checklists, forms, etc.) to document various actions and decision-points throughout the NEPA process. These are an effective tool for ADOT to consistently evaluate environmental resources and document decisions. Staff indicated that these templates have aided in streamlining the review process and provided consistency across projects.

#### Observations

##### Non-Compliance Observation #2: Project-Level Conformity Compliance Issues

The statutory provisions of the NEPA Assignment Program, along with Section 3.2.1 of the MOU, prohibit ADOT from assuming the responsibility for making conformity determinations

for projects processed under the 23 U.S.C. 327 MOU. However, pursuant to the Federal transportation conformity regulations at 40 CFR 93.105(c) and Section 7.2.1 of the MOU, ADOT and FHWA Arizona Division can agree on procedures that allow ADOT to engage in activities to assist in this process and establish when and how consultation with FHWA must occur.

The audit team reviewed ADOT's protocols for seeking FHWA's project-level conformity determinations, conducted a focused review of project-level conformity procedures on six projects, and interviewed ADOT, MAG, and EPA staff. The audit team found that ADOT had not given FHWA a chance to review and agree on the protocols and, as a result, the protocols do not provide for the appropriate consultation, coordination, and communication with FHWA and other agencies, such as EPA and MAG, to ensure the projects meet the project-level conformity requirements where required.

The audit team found documentation for two projects showing that ADOT staff did not coordinate with FHWA on the application of conformity requirements and, by doing so, ADOT took actions that were not assigned to them. This failure to coordinate prevented FHWA from meeting its conformity determination responsibilities. The ADOT incorrectly concluded that the conformity requirements did not apply to one of the two projects because they assumed that the project would not trigger any FHWA approvals. The ADOT proceeded to complete NEPA without FHWA's conformity determination. This deficient approval prevents FHWA from authorizing the project until the conformity requirements are met. In another project, ADOT incorrectly determined that a widening project was exempt from project conformity under 40 CFR 93.126.

The audit team found multiple projects that did not demonstrate ADOT's compliance with interagency consultation requirements, per 40 CFR 93.105. The ADOT appears to have conducted some degree of interagency consultation but information on such consultation was not included in the project files. Therefore, it is unclear whether the interagency consultation agencies had an opportunity to participate in consultation or if ADOT provided them an opportunity to review and comment on the materials as required by 40 CFR 93.105 and MOU Section 7.2.1. During interviews, EPA expressed concerns regarding how ADOT conducts project-level

interagency consultation. Both EPA and MAG also felt that the interagency consultation is not fully transparent since ADOT does not: (1) Share comments with all interagency consultation agencies throughout the process; (2) provide responses to agency comments; and (3) consistently follow up with agencies to ensure their comments are adequately addressed. In cases where a project-level conformity determination is required, the interagency consultation process must meet the conformity rule requirements found in 40 CFR 93.105.

During interviews, ADOT staff did not demonstrate a full of understanding project-level conformity requirements. The audit team identified that ADOT staff were not aware that: (1) Certain FHWA approvals (in addition to Federal funding) may necessitate a project-level conformity determination; (2) certain situations may require a redetermination of project-level conformity under 40 CFR 93.104(d); (3) the importance of specific traffic data requirements for the reviews; and (4) the public involvement requirements associated with project-level conformity.

The lack of agreed-upon interagency consultation procedures with clear roles, responsibilities, and coordination protocols, particularly between ADOT and FHWA, creates a significant risk of project schedule delays and, ultimately, project non-compliance. The ADOT should revise their procedures to be consistent with 40 CFR 93.105 and obtain agreement from FHWA to make sure the correct workflows are established, the responsibilities of FHWA are not curtailed, and that interagency consultation is transparent. Until agreed-upon protocols between FHWA and ADOT are in place, ADOT should consult with FHWA on all projects in non-attainment and maintenance areas to determine if conformity determination will be required for the project and the appropriate interagency consultation needed.

##### Observation #2: Inconsistencies and Deficiencies Based on the Review of Project File Documentation

The audit team preliminarily identified several inconsistencies between ADOT's procedures for documenting project decisions (as identified in the ADOT CE Checklist Manual, ADOT EA/EIS Manual, ADOT QA/QC Plan, and ADOT Project Development Procedures Manual) and the incomplete project file documentation provided. Section 4.2.4 of the MOU specifies that ADOT must

implement documentation procedures to support appropriate environmental analysis and decision-making under NEPA and associated laws and regulations. The FHWA informed ADOT EP leadership during the audit week that project files were incomplete and, in response, ADOT submitted additional project files and supporting documentation. The ADOT was provided a second opportunity after the audit week to clarify inconsistencies identified by the audit team and answer follow-up questions regarding the project documentation.

After completing the project file review (including the supplemental information provided by ADOT), the audit team identified the following procedural deficiencies relating to the MOU and FHWA's regulations, policies, and guidance:

- One project did not include the disclosure statement on the DEIS cover page regarding the intent to combine the final EIS and record of decision (ROD) as identified in the January 14, 2013, interim guidance memorandum on MAP-21 Section 1319 Accelerated Decision making in Environmental Reviews.

- One corridor widening project did not demonstrate independent utility and logical termini as required in 23 CFR 771.111(f)(1) and 23 CFR 771.111(f)(2).

- One project did not demonstrate that funding for the project is programmed beyond Fiscal Year 2019 and did not demonstrate that the project is identified on a current Statewide Transportation Improvement Program (STIP) per 23 CFR 771.113(a)(3).

In addition, the audit team found several inconsistencies between ADOT's documentation of Section 4(f) determinations (as identified in ADOT's Section 4(f) procedures and FHWA Section 4(f) regulation and guidance) and the project file documentation. Due to the inadequate information provided, it is unclear how ADOT is implementing Section 4(f) and how ADOT is complying with its Section 4(f) procedures. The audit team identified the following inconsistencies in project files relating to Section 4(f) evaluations and determinations:

- One project included a Section 106 no adverse effect finding and Section 4(f) no use determinations for six historic properties; however, ADOT did not provide any information demonstrating how they evaluated these resources under Section 4(f), or if they consulted the officials with jurisdiction over the resources.

- Two projects included a Section 106 finding of either adverse effect or no adverse effect, indicating the presence

of potential Section 4(f) resources; however, ADOT did not provide any information demonstrating how they evaluated these resources under Section 4(f), or if they had consulted the officials with jurisdiction over the resources.

- One project included a Section 4(f) joint development determination but it is unclear what information ADOT used to support this determination (such as a master plan map or other planning information), or if they consulted the official with jurisdiction over the resource regarding potential impacts to the Section 4(f) resource.

- One project included a temporary occupancy determination and the description of the impact to the resource is inconsistent with the definition provided in 23 CFR 774.13(d)(3).

- One project stated that a Section 4(f) resource within the project area is jointly owned by two entities, but it is unclear if ADOT consulted with both officials with jurisdiction regarding the *de minimis* use since only one official with jurisdiction concurred with the *de minimis* use.

The audit team acknowledges that ADOT is aware that implementation of Section 4(f) is an area in need of improvement and recognizes their efforts to update its procedures, including ADOT recently developing standard evaluation forms.

#### Quality Assurance/Quality Control (QA/QC)

The audit team verified that ADOT has procedures in place for QA/QC which are described in the ADOT QA/QC Manual and ADOT Project Development Procedures Manual. The ADOT has developed QC checklists and forms to assist in implementing project-level QC procedures. During the project file reviews, the audit team noted some variation in how ADOT implements project-level QC procedures, and inconsistencies in how ADOT documents QC reviews. It was unclear how ADOT conducts thorough project-level QC reviews (completeness vs. accuracy), how ADOT corrects errors it identifies during QC reviews, and how the environmental planners coordinate with technical experts during QC reviews. Staff indicated during interviews that informal QC reviews are often conducted before QC checklists are completed, though it is unclear how this process is tracked to ensure comments are addressed. Due to these inconsistencies, the audit team was unable to fully assess the implementation of project-level QC procedures. The FHWA will continue to

evaluate this program objective in subsequent audits.

#### Performance Measures

##### Observations

##### Observation #3: Incomplete Development and Implementation of Performance Measures

The audit team reviewed ADOT's development and implementation of performance measures to evaluate their program as required in the MOU (Part 10.2.1). The ADOT's QA/QC Plan and self-assessment report identified several performance measures but both indicated that ADOT was still refining these measures and had not fully implemented them. The ADOT's PAIR response stated that ADOT has focused on tracking projects for schedule issues and has not begun gathering data for other performance measures. The self-assessment report did not include reporting data for any of the performance measures. The audit team confirmed during staff interviews that ADOT does not have data for its performance measures and is looking to further refine its performance measures. Due to the lack of performance measure data, the audit team determined that ADOT has not fully established and initiated data collection as it relates to performance metrics per the MOU.

##### Legal Sufficiency

Through information provided by ADOT and an interview by the FHWA Office of Chief Counsel with an Assistant Attorney General (AAG) assigned to ADOT's NEPA Assignment program, the auditors determined ADOT had not conducted formal legal sufficiency reviews of assigned environmental documents during the audit period. Currently, ADOT retains the services of two AAGs for NEPA Assignment reviews and related matters. The assigned AAGs have received formal and informal training in environmental law matters. The ADOT also has the ability to retain outside counsel to review projects or conduct litigation should the need arise.

##### Successful Practice

Through the interview, the audit team learned ADOT seeks to involve lawyers early in the environmental review phase, with AAGs participating in project coordination team meetings and reviews of early drafts of environmental documents. In addition, ADOT and the AGO have a process in place by which ADOT can request written legal opinions and advice from an AAG on environmental review legal matters. For formal reviews, the process would

include a formal transmittal memo from an ADOT environmental manager, a review package (hard copy or electronic), and a completed ADOT EA/EIS Quality Control Checklist.

### Training

The audit team reviewed ADOT's 2020 Training Plan and ADOT's PAIR responses pertaining to its training program. The ADOT's training program includes in-house, web-based, and instructor-led courses training opportunities for staff. Since assuming NEPA responsibilities, ADOT has held several formal training courses and plans to continue these efforts during the upcoming year. The ADOT provides new hires with structured onboarding training which includes coaching, mentoring, and collaborative on-the-job training to facilitate professional development. The ADOT EP Training Officer tracks staff training needs and completion of courses and updates this document quarterly. Staff remarked during interviews on the availability of training offered to them and opportunities to travel out of State for specialty technical courses.

### Successful Practices

The audit team commends ADOT for developing a detailed training plan and committing resources to provide training opportunities for staff. The ADOT EP encourages staff to pursue individual training interests and has undertaken efforts to ensure staff maintains professional certifications. The ADOT EP has developed a web-based training course for staff as an introduction to NEPA Assignment. To further support the training program, ADOT EP utilizes a dedicated training coordinator within the environmental section.

### Finalizing This Report

The FHWA published a draft version of this report in the **Federal Register** on December 28, 2020 (85 FR 84454), and made it available for public review and comment for 30 days in accordance with 23 U.S.C. 327(g). The FHWA received two responses to the **Federal Register** notice during the public comment period for the draft report. One comment was submitted by ADOT. The nature of ADOT's comment was substantially the same as those provided by ADOT during their preliminary review of the draft report which were considered in developing the draft report. The FHWA considered this additional comment from ADOT and determined no changes were needed to the content of the report since the comment had been previously

considered in the draft report. The final version of the audit report reflects consideration of all of ADOT's comments. The second comment from the American Road and Transportation Builders Association expressed their support of the program and did not require any changes to the content of the report. This is FHWA's final version of the audit report.

The FHWA acknowledges that ADOT has begun to address some of the observations identified in this report and recognizes ADOT's efforts toward improving their program. The FHWA will consider the results of this audit in preparing the scope of the next annual audit. The next audit report will include a summary that describes the status of ADOT's corrective and other actions taken in response to this audit's conclusions.

[FR Doc. 2021-24215 Filed 11-4-21; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-26367]

### Meetings: Motor Carrier Safety Advisory Committee (MCSAC); Notice of Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** FMCSA announces a meeting of MCSAC, which will take place via videoconference.

**DATES:** The meeting will be held Monday and Tuesday, December 6 and 7, 2021, from 9:15 a.m. to 4:30 p.m., Eastern Time. Requests for accommodations because of a disability must be received by Monday, November 29. Requests to register and/or to submit written materials to be reviewed during the meeting must be received no later than Monday, November 29.

**ADDRESSES:** The meeting will be held via videoconference. Those members of the public who would like to participate should go to <https://www.fmcsa.dot.gov/advisory-committees/mcsac/meetings> to access the meeting, task statements, a detailed agenda for the entire meeting, meeting minutes and additional information on MCSAC and its activities. The meeting will be recorded, and a link to the recording will be posted on the FMCSA website.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon L. Watson, Senior Advisor to

the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 360-2925, [mcsac@dot.gov](mailto:mcsac@dot.gov). Any MSCAC-related request or submission should be sent via email to the person listed in this section.

Information may also be submitted by docket through Docket Number FMCSA-2006-26367 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590.

- **Hand Delivery:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m., E.T. 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.

### SUPPLEMENTARY INFORMATION:

#### I. Background

##### *Purpose of the Committee*

MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations. MCSAC is composed of up to 25 voting representatives from the motor carrier safety advocacy, safety enforcement, labor, and industry sectors. The diversity of MCSAC ensures the requisite range of views and expertise necessary to discharge its responsibilities. MCSAC operates as a discretionary committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app. 2).

##### *Meeting Agenda*

MCSAC will resume consideration of Task 21-1, relating to supply chains for the transportation industrial base. Task 21-1 includes discussions about workforce skills for the motor carrier sector and identified gaps, opportunities, and potential best practices in meeting the future workforce needs and driver retention for the motor carrier industry. The task also includes discussions about the role of transportation systems in supporting existing supply chains and risks