

- Flood Disaster Protection Act, 42 U.S.C. 4001–4130

#### Parklands

- Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
- Land and Water Conservation Fund (LWCF) Act, 54 U.S.C. 200302–200310

#### FHWA-Specific

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135
- Programmatic Mitigation Plans, 23 U.S.C. 169 with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

#### Executive Orders Relating to Highway Projects

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management (except approving design standards and determinations that a significant encroachment is the only practicable alternative under 23 CFR 650.113 and 650.115)
- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13112, Invasive Species

The proposed renewal MOU would allow Caltrans to continue to act in the place of FHWA in carrying out the environmental review-related functions described above, except with respect to government-to-government consultations with federally recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the listed laws and executive orders. Caltrans will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with FHWA upon request. Caltrans also may assist FHWA with formal consultations, with consent of a tribe, but FHWA remains responsible for the consultation. The FHWA and Caltrans have received requests for formal consultations with several tribes regarding the proposed renewal of the MOU and currently are engaged in ongoing consultations. Caltrans also will not assume FHWA's responsibilities for conformity determinations required under Section 176 of the Clean Air Act (42 U.S.C. 7506) or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

The MOU content reflects Caltrans' desire to continue its participation in the Program without any changes (that is, no new responsibilities were requested). The FHWA and Caltrans have agreed to modify some of the provisions in the MOU to: Establish the monitoring process required by the permanent Program; accommodate changes specified in Section 1308 of the FAST Act; clarify, the role of the Department of Justice and FHWA in settlements and appeals; and to make the renewed MOU notice and review time frames consistent with other States in this program. The FHWA and Caltrans have also agreed on a process to address a possible temporary lapse in the State's statutory consent to Federal court jurisdiction and waiver of sovereign immunity waiver. If the State does not provide consent to Federal court jurisdiction and waive sovereign immunity by December 31, 2016, this MOU will be suspended and Caltrans will not be able to make any NEPA decisions or implement any of the environmental review responsibilities assigned under the MOU. The FHWA and Caltrans propose a temporary suspension not to exceed 90 days to provide time for the State to address the deficiency. In the event that the State does not take the necessary action and Caltrans does not provide adequate certification within the time period provided, the State's participation in the Program will be terminated.

A copy of the proposed renewal MOU and renewal package may be viewed on the DOT DMS Docket, as described above, or may be obtained by contacting FHWA or the State at the addresses provided above. A copy also may be viewed on Caltrans' Web site at <http://www.dot.ca.gov/hq/env/nepa/>. The FHWA California Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final renewal MOU approved by FHWA may include changes based on comments and consultations relating to the proposed renewal MOU and will be made publicly available.

(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. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Dated: November 9, 2016.

**Gregory G. Nadeau,**  
Administrator, Federal Highway  
Administration.

[FR Doc. 2016-27502 Filed 11-15-16; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[Docket No. FHWA-2016-0031]

#### Application From the State of Utah to the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of proposed MOU and request for comments.

**SUMMARY:** This notice announces that FHWA has received and reviewed an application from the Utah Department of Transportation (UDOT) requesting participation in the Surface Transportation Project Delivery Program (Program). This Program allows for FHWA to assign, and States to assume, responsibilities under the National Environmental Policy Act of 1969 (NEPA), and all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal highway projects within the State. The FHWA has determined the application to be complete and developed a draft MOU with UDOT outlining how the State would implement the program with FHWA oversight. The FHWA invites the public to comment on UDOT's request, including its application and the proposed MOU, which includes the proposed assignments and assumptions of environmental review, consultation, and other activities.

**DATES:** Please submit comments by December 16, 2016.

**ADDRESSES:** To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

- *Facsimile (Fax):* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave. SE., West Building

Ground Floor Room W12-140, Washington, DC 20590-0001.

• *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE., Washington, DC 20590 between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

*Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Edward Woolford, Right of Way and Environmental Manager, Federal Highway Administration Utah Division, 2520 West 4700 South, Suite 9A, Salt Lake City, UT 84129, 7:00 a.m.–4:30 p.m. (MT), (801) 955-3524, [Edward.Woolford@dot.gov](mailto:Edward.Woolford@dot.gov).

Brandon Weston, Director, Environmental Services, Utah Department of Transportation, 4501 South 2700 West, P.O. Box 148450, Salt Lake City, UT 84114, 8:00 a.m.–5:00 p.m. (MT), (801) 965-4603, [brandonweston@utah.gov](mailto:brandonweston@utah.gov).

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An electronic copy of this notice may be downloaded from the **Federal Register's** home page at <http://www.archives.gov>. An electronic version of the application materials and proposed MOU may be downloaded by accessing the DOT DMS docket, as described above, at <http://www.regulations.gov/>.

**Background**

Section 327 of title 23, United States Code (23 U.S.C. 327), allows the Secretary of the U.S. Department of Transportation (Secretary) to assign, and a State to assume, responsibility for all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal-aid highway projects within the State pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

Under the proposed MOU, FHWA would assign to the State, through UDOT, the responsibility for making decisions on the following types of highway projects:

1. Highway projects within the State of Utah that are proposed to be funded with title 23 funds or otherwise require

FHWA approval, and that require preparation of an environmental impact statement (EIS) or environmental assessment (EA) with the exception of the following EIS project: West Davis Corridor EIS—This project is in UDOT Region 1 in western Davis and Weber Counties.

2. Highway projects qualifying for categorical exclusions (CE) within the State of Utah that are proposed to be funded with title 23 funds or that otherwise require FHWA approvals, and that do not qualify for assignment of responsibilities pursuant to the MOU for environmental review assignment for projects qualifying for CEs (23 U.S.C. 326 MOU) executed on June 30, 2014.

3. Projects funded by other Federal agencies (or projects without any Federal funding) that also require FHWA approvals. For these projects, UDOT would not assume the NEPA responsibilities of other Federal agencies. However, UDOT may use or adopt other Federal agencies' NEPA analyses consistent with 40 CFR parts 1500-1508, and DOT and FHWA regulations, policies, and guidance.

4. Excluded from assignment are highway projects authorized under 23 U.S.C. 202, 203, and 204 unless the project will be designed and/or constructed by UDOT, projects that cross State boundaries, and projects that cross or are adjacent to international boundaries.

The assignment also would give the State the responsibility to conduct the following environmental review, consultation, and other related activities for project delivery:

*Air Quality*

- Clean Air Act (CAA), 42 U.S.C. 7401-7671q, with the exception of any conformity determinations

*Noise*

- Noise Control Act of 1972, 42 U.S.C. 4901-4918
- Compliance with the noise regulations in 23 CFR part 772

*Wildlife*

- Endangered Species Act of 1973, 16 U.S.C. 1531-1544
- Fish and Wildlife Coordination Act, 16 U.S.C. 661-667d
- Migratory Bird Treaty Act, 16 U.S.C. 703-712

*Hazardous Materials Management*

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675
- Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 9671-9675

- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992k

*Historic and Cultural Resources*

- National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306101, *et seq.*
- Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 470aa-479mm
- Title 54, Chapter 3125—Preservation of Historical and Archeological Data, 54 U.S.C. 312501-312508
- Native American Grave Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013; 18 U.S.C. 1170

*Social and Economic Impacts*

- American Indian Religious Freedom Act, 42 U.S.C. 1996
- Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201-4209

*Water Resources and Wetlands*

- Clean Water Act, 33 U.S.C. 1251-1387 (Section 401, 402, 404, 408, and Section 319)
- Safe Drinking Water Act (SDWA), 42 U.S.C. 300f-300j-26
- Rivers and Harbors Act of 1899, 33 U.S.C. 401, 403-04, and 406
- Wild and Scenic Rivers Act, 16 U.S.C. 1271-1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3921
- Wetlands Mitigation, 23 U.S.C. 119(g), 133(b)(14)
- Flood Disaster Protection Act, 42 U.S.C. 4001-4130
- General Bridge Act of 1946, 33 U.S.C. 525-533
- FHWA wetland and natural habitat mitigation regulations, 23 CFR part 777

*Parklands and Other Special Land Uses*

- 23 U.S.C. 138 and 49 U.S.C. 303 (Section 4(f)) and implementing regulations at 23 CFR part 774
- Land and Water Conservation Fund (LWCF) Act, 54 U.S.C. 200302-200310

*FHWA-Specific*

- Planning and Environmental Linkages, 23 U.S.C. 168, with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135
- Programmatic Mitigation Plans, 23 U.S.C. 169 with the exception of those FHWA responsibilities associated with 23 U.S.C. 134 and 135

*Executive Orders Relating to Highway Projects*

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management (except approving design standards)

and determinations that a significant encroachment is the only practicable alternative under 23 CFR 650.113 and 650.115)

- E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13112, Invasive Species.

The MOU would allow UDOT to act in the place of FHWA in carrying out the environmental review-related functions described above, except with respect to government-to-government consultations with federally recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the listed laws and executive orders. The UDOT will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with the FHWA upon request. The UDOT also may assist FHWA with formal consultations, with consent of a tribe, but FHWA remains responsible for the consultation.

The UDOT also will not assume FHWA's responsibilities for conformity determinations required under Section 176 of the CAA (42 U.S.C. 7506), or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

A copy of the proposed MOU may be viewed on the DOT DMS Docket, as described above, or may be obtained by contacting FHWA or the State at the addresses provided above. A copy also may be viewed on UDOT's Web site at: <https://www.udot.utah.gov/go/neaassignment>.

The FHWA Utah Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final MOU approved by FHWA may include changes based on comments and consultations relating to the proposed MOU and will be made publicly available.

(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. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.101–139; 23 CFR 773.109; and 40 CFR 1507.3.

Issued on: November 9, 2016.

**Gregory G. Nadeau,**  
*Administrator, Federal Highway Administration.*

[FR Doc. 2016–27507 Filed 11–15–16; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[FHWA Docket No. FHWA–2016–0029]

#### FAST Act Section 1422 Study on Performance of Bridges

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comment.

**SUMMARY:** Section 1422 of the Fixing America's Surface Transportation (FAST) Act directs the Administrator of the Federal Highway Administration (FHWA) to commission the Transportation Research Board of the National Academy of Sciences to conduct a study on the performance of bridges that received funding under the Innovative Bridge Research and Construction program in meeting the goals of that program. Section 1422 also directs the Administrator of FHWA to provide an opportunity for public comment on the study proposal before commissioning the study. This notice provides the study proposal and the opportunity for public comment.

**DATES:** Comments must be received on or before December 16, 2016.

**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 is able to search the electronic form of all comments in any one 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 edit, 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. Derek Constable, Office of Bridges and Structures, (202) 366–4606, or via email at [derek.constable@dot.gov](mailto:derek.constable@dot.gov); Mr. Shay Burrows, Office of Bridges and Structures, (202) 366–4675, or via email at [shay.burrows@dot.gov](mailto:shay.burrows@dot.gov); for legal questions, Mr. Robert Black, (202) 366–1359, or via email at [robert.black@dot.gov](mailto:robert.black@dot.gov), 1200 New Jersey Ave. 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

As directed by FAST Act Section 1422, FHWA will commission the Transportation Research Board to conduct a study on the performance of bridges funded by the Innovative Bridge Research and Construction (IBRC) program as provided under section 503(b) of Title 23, United States Code, and in effect on the day before the date of enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The IBRC program was originated by the Transportation Equity Act for the 21st Century (TEA–21) with the purpose of demonstrating the application of innovative material technology in the construction of bridges and other structures. Seven goals were identified in TEA–21. SAFETEA–LU continued the program, but amended the program name, purpose, and goals. The program was then discontinued with the passage of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. The FAST Act directs FHWA to commission the Transportation Research Board to conduct a study on the performance of bridges that received funding under the IBRC program. The IBRC program provided funding to help defray costs on more than 400 projects.

The study will include an analysis of the performance of bridges that received funding under the IBRC program in meeting the program goals;

(A) The development of new, cost-effective innovative material highway bridge applications;

(B) the reduction of maintenance costs and lifecycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;