

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by FHWA and other Federal agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(I)(1). These actions relate to a proposed highway project, U.S. Route 101 Willits Bypass Project between kilo post R69.4 and R78.9 (post mile R43.1 to 49.0) in Mendocino County, State of California. These actions grant approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 5, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:**

Maiser Khaled, Director, Project Development & Environment, Federal Highway Administration, 650 Capitol Mall, Suite 4-100, Sacramento, CA 95814, weekdays between 7 a.m. and 4 p.m., telephone 916-498-5020, [maiser.khaled@fhwa.dot.gov](mailto:maiser.khaled@fhwa.dot.gov). For U.S. Fish and Wildlife Service, Ray Bosch, Wildlife Biologist, Endangered Species Program, Arcata Fish and Wildlife Office, telephone 707-822-7201, [ray\\_bosch@fws.gov](mailto:ray_bosch@fws.gov).

For National Oceanic and Atmospheric Administration—National Marine Fisheries Service, Thomas Daugherty, Fisheries Biologist, Ukiah Office, Telephone 707-468-4057, [Tom.Daugherty@noaa.gov](mailto:Tom.Daugherty@noaa.gov). For California Department of Transportation, Jeremy Ketchum, Senior Environmental Planner, 2389 Gateway Oaks Dr., Sacramento, CA 95833, weekdays between 8 a.m. and 5 p.m., (916) 274-0621, [jeremy\\_ketchum@dot.ca.gov](mailto:jeremy_ketchum@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(I)(1) by issuing approvals for the following highway project in the State of California: U.S. Route 101 Willits Bypass Project between kilo post R69.4 and R78.9 (post mile R43.1 to 49.0) in Mendocino County. This project would reduce delays, improve safety, and provide at least a Level of Service C for interregional traffic on U.S. 101 in the vicinity of the City of Willits, Mendocino County, California. This

would be accomplished by constructing a four-lane freeway around the city of Willits, in Mendocino County, from 0.8 mile south of the Haehl Overhead to 2.9 miles south of Reynolds Highway. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) for the project, approved on November 25, 2006, in the Record of Decision (ROD) issued on December 18, 2006, and in other documents in the FHWA project files. The FEIS, ROD, and other project records are available by contacting the FHWA or the California Department of Transportation at the addresses provided above. The FHWA FEIS and ROD can be viewed and downloaded from the project Web site <http://www.dot.ca.gov/dist1/d1/projects/willits/reports.htm> or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

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

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Anadromous Fish Conservation Act [16 U.S.C. 757(a)-757(g)], Migratory Bird Treaty Act [16 U.S.C. 703-712], Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)].

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

7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Coastal Barrier Resources Act, 16 U.S.C. 3501-3510; Coastal Zone Management Act, 16 U.S.C. 1451-1465; Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601-4604; 42 U.S.C. 300(f)-300(j)(6); Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931;

TEA-21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001-4128.

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

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

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

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

Issued on: December 28, 2006.

**Gene K. Fong,**

*Division Administrator, Federal Highway Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2005-23281, Notice No. 3]

#### Safety of Private Highway-Rail Grade Crossings; Notice of Safety Inquiry

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of safety inquiry.

**SUMMARY:** On July 27, 2006, the FRA published a notice announcing its intent to conduct a series of open meetings throughout the United States, in cooperation with appropriate State agencies, to consider issues related to the safety of private highway-rail grade crossings. This notice indicated that the first of these meetings would be held August 30, 2006, in Fort Snelling, Minnesota. On September 22, 2006, the FRA published a second notice, which announced that FRA had scheduled subsequent meetings, to be held on September 27, 2006, in Raleigh, North

Carolina; October 26, 2006, in San Francisco, California; and December 6, 2006, in New Orleans, Louisiana. This Notice No. 3 announces that the FRA has scheduled an additional meeting, to be held on February 15, 2007, in Syracuse, New York.

At the meeting, FRA intends to solicit oral statements from private crossing owners, railroads and other interested parties on issues related to the safety of private highway-rail grade crossings, which will include, but not be limited to, current practices concerning responsibility for safety at private grade crossings, the adequacy of warning devices at private crossings, and the relative merits of a more uniform approach to improving safety at private crossings. FRA has also opened a public docket on these issues, so that interested parties may submit written comments for public review and consideration.

**DATES:** The public meeting will be held in Syracuse, New York on February 15, 2007, at the Doubletree Hotel, 6301 State Route 298, Syracuse, New York, 13057, beginning at 9:30 a.m.

Persons wishing to participate are requested to provide their names, organizational affiliation and contact information to Michelle Silva, Docket Clerk, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6030). Persons needing sign language interpretation or other reasonable accommodation for disability are also encouraged to contact Ms. Silva. Additional public meetings will be announced as they are scheduled.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); Miriam Kloepfel, Office of Safety, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6299); or Kathryn Shelton, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202-493-6038).

**SUPPLEMENTARY INFORMATION:** For additional information, please see the initial notice, published July 27 in the **Federal Register** (citation: 71 FR 42713) and available at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-6501.pdf>

#### Request for Comments

While FRA solicits discussion and comments on all areas of safety at private highway-rail grade crossings, we particularly encourage comments on the following topics:

At-grade highway-rail crossings present inherent risks to users,

including the railroad and its employees, and to other persons in the vicinity should a train derail into an occupied area or release hazardous materials. When passenger trains are involved, the risks are heightened. From the standpoint of public policy, how do we determine whether creation or continuation of a private crossing is justified?

Is the current assignment of responsibility for safety at private crossings effective? To what extent do risk management practices associated with insurance arrangements result in "regulation" of safety at private crossings?

How should improvement and/or maintenance costs associated with private crossing be allocated?

Is there a need for alternative dispute resolution mechanisms to handle disputes that may arise between private crossing owners and the railroads?

Should the State or Federal government assume greater responsibility for safety at private crossings?

Should there be Nationwide standards for warning devices at private crossings, or for intersection design of new private grade crossings?

How do we determine when a private crossing has a "public purpose" and is subject to public use?

Should some crossings be categorized as "commercial crossings", rather than as "private crossings"?

Are there innovative traffic control treatments that could improve safety at private crossings on major rail corridors, including those on which passenger service is provided?

Should the Department of Transportation request enactment of legislation to address private crossings? If so, what should it include?

Issued in Washington, DC, on December 29, 2006.

**Jo Strang,**

*Associate Administrator for Safety.*

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## DEPARTMENT OF TRANSPORTATION

### Research and Innovative Technology Administration

[RITA-2006-26758]

#### Statement Regarding a Coordinated Framework for Regulation of a Hydrogen Economy

**AGENCY:** Research and Innovative Technology Administration, U.S. Department of Transportation.

**ACTION:** Notice of inquiry and request for public comment.

**SUMMARY:** The purpose of this **Federal Register** notice is to inform the public of current U.S. statutes and regulations that may be applicable to a hydrogen economy and to request comments on their interface. This notice describes and indexes several statutory and regulatory provisions of each major Federal agency and discusses possible applications of these provisions to aspects of a hydrogen economy, including construction and certification of transportation/ports infrastructure, the use of fuel cells to power automobiles and generate electricity for homes and businesses, and effects on public safety and health. The notice also describes the regulatory jurisdictions of each Federal agency in the context of a hydrogen economy. In addition, public comments are invited on a Web site that was created to depict the regulatory framework of a hydrogen economy. The Web site is located at <http://hydrogen.gov/regulations.html>. Comments will be used to improve the Web site.

**DATES:** Comments must be received on or before March 6, 2007.

**Public Participation:** The Ad Hoc Committee on a Regulatory Framework for a Hydrogen Economy (Ad Hoc Committee) of the Interagency Working Group on Hydrogen and Fuel Cells (IWG), which is part of the Executive Office of the President's National Science and Technology Council (NSTC), is seeking comments and advice from individuals, public interest groups, industry and academia on this statement regarding the framework for regulation of a hydrogen economy.

The Ad Hoc Committee members include the Office of Science and Technology Policy (OSTP), Department of State (DOS), U.S. Department of Transportation (DOT) (including the Federal Aviation Administration (FAA), Federal Highways Administration (FHWA), Federal Railroad Administration (FRA), National Highway Traffic Safety Administration (NHTSA), Federal Transit Administration (FTA), the Maritime Administration (MARAD), Federal Motor Carrier Administration (FMCSA), Pipeline and Hazardous Materials Safety Administration (PHMSA) and Research and Innovative Technology Administration (RITA)), Department of Agriculture (USDA), Department of Labor's (DOL's) Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA) and Federal