

together with funds provided by one or more non-federal project sponsors, will be reserved for this contract.

(b) Failure to make payments in excess of the amount currently reserved, or that may be reserved from time to time, shall not be considered a breach of contract and shall not entitle the Contractor to a price adjustment under the terms of this contract.

(c) The Government may at any time reserve additional funds for payments under the contract if there are funds available for such purpose. The Contracting Officer will promptly notify the Contractor of any additional funds reserved for the contract by issuing an administrative modification to the contract.

(d) If earnings will be such that funds reserved for the contract will be exhausted before the end of any fiscal year, the Contractor shall give written notice to the Contracting Officer of the estimated date of exhaustion and the amount of additional funds which will be needed to meet payments due or to become due under the contract during that fiscal year. This notice shall be given not less than 120 days prior to the estimated date of exhaustion. Unless informed in writing by the Contracting Officer that additional funds have been reserved for payments under the contract, the Contractor shall stop work upon the exhaustion of funds.

(e) No payments will be made after exhaustion of funds except to the extent that additional funds are reserved for the contract.

(f) Any suspension, delay, or interruption of work arising from exhaustion or anticipated exhaustion of funds shall not constitute a breach of this contract and shall not entitle the Contractor to any price adjustment under the "Suspension of Work" clause or in any other manner under this contract.

(g) An equitable adjustment in performance time shall be made for any increase in the time required for performance of any part of the work arising from exhaustion of funds or the reasonable anticipation of exhaustion of funds.

(h) If, upon the expiration of one-hundred (100) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve additional funds for this contract sufficient to cover the Government's estimate of funding required for the first quarter of that fiscal year, the Contractor, by written notice delivered to the Contracting Officer at any time before such additional funds are reserved, may elect to treat his right to proceed with the

work as having been terminated. Such a termination shall be considered a termination for the convenience of the Government.

(i) If at any time it becomes apparent that the funds reserved for any fiscal year are in excess of the funds required to meet all payments due or to become due the Contractor because of work performed and to be performed under the contract during the fiscal year, the Government reserves the right, after notice to the Contractor, to reduce said reservation by the amount of such excess.

(j) The term "Reservation" means monies that have been set aside and made available for payments under this contract. Reservations of funds shall be made in writing via an administrative modification issued by the Contracting Officer.

#### Alternate I

If future funding for the specifically authorized civil works project for which use of the continuing contract is contemplated is not included in the following year's President's Budget, substitute the following paragraphs (a) and (h) for paragraphs (a) and (h) of the basic clause:

(a) Funds are not available at the inception of this contract to cover the entire contract price. The liability of the Government is limited by this clause notwithstanding any contrary provision of the "Payments to Contractor" clause or any other clause of this contract. The sum of \$ \_\_\_\_\_ [Each fiscal year of contract execution, Contracting Officer shall insert the specific dollar amount that is reserved for this contract and available for payment to the contractor during the current fiscal year. The Contracting Officer shall modify that amount to reflect any funds added to or subtracted from the contract during a current fiscal year.] has been reserved for this contract and is available for payment to the Contractor during the current fiscal year. It is expected that Congress will make appropriations for future fiscal years from which additional funds, together with funds provided by one or more non-federal project sponsors, will be reserved for this contract.

(h) If, upon the expiration of one-hundred (100) days after the beginning of the fiscal year following an exhaustion of funds, the Government has failed to reserve additional funds for this contract sufficient to cover the Government's estimate of funding required for the first quarter of that fiscal year, the Contractor, by written notice delivered to the Contracting Officer at any time before such

additional funds are reserved, may elect to treat his right to proceed with the work as having been terminated. The Government will not be obligated in any event to reimburse the Contractor for any costs incurred after the exhaustion of funds regardless of anything to the contrary in the clause entitled "Termination for Convenience of the Government."

[FR Doc. 2010-379 Filed 1-14-10; 8:45 am]

BILLING CODE 3720-58-P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 234

[Docket No. FRA-2009-0032, Notice No. 4]

RIN 2130-AC20

#### State Highway-Rail Grade Crossing Action Plans

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

**ACTION:** Notice of public hearing and extension of comment period.

**SUMMARY:** By notice of proposed rulemaking (NPRM) published on November 13, 2009 (74 FR 58589), FRA proposed a rule to require the ten States with the most highway-rail grade crossing collisions, on average, over the past three years, to develop State highway-rail grade crossing action plans. This document announces a public hearing to provide interested parties the opportunity to comment on the NPRM and announces a fourteen (14) day extension of the comment period, which closed December 14, 2009, to commence on the date of the public hearing. The extension provides interested parties the opportunity to comment on the NPRM and to respond to matters that arise at the public hearing related to the NPRM.

**DATES:** (1) *Public Hearing:* A public hearing will be held on the date and at the location listed below to provide interested parties the opportunity to comment on the proposed rule contained in the NPRM. A fourteen (14) day extension of the comment period will commence on the date of the hearing. The date of the public hearing is as follows: Monday, February 22, 2010, at 9:30 a.m. in Washington, DC.

(2) *Extension of Comment Period:* The comment period will reopen Monday, February 22, 2010 and written comments must be received by Monday, March 8, 2010. Comments received after that date will be considered to the

extent possible without incurring additional expenses or delays.

**ADDRESSES:** (1) *Public Hearing:* The public hearing will be held at the following location: *Washington, DC:* Washington Plaza Hotel, Ten Thomas Circle, Washington, DC 20005.

(2) *Extension of Comment Period:* Comments related to Docket No. FRA-2009-0032, may be submitted by any of the following methods:

- *Fax:* 1-202-493-2251;
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590;
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- Electronically through the Federal eRulemaking Portal, <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Office of Safety, FRA, 1200 New Jersey Ave. SE., RRS-23, Mail Stop 25, Washington, DC 20590 (Telephone 202-493-6299), or Zeb Schorr, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Ave., SE., Mail Stop 10, Washington, DC 20590 (Telephone 202-493-6072).

**SUPPLEMENTARY INFORMATION:** FRA has received written comments submitted by interested parties related to various parts of the NPRM and written requests for a hearing regarding the NPRM. FRA is holding a public hearing to permit the exchange of information and concerns regarding FRA's proposed rule. The public hearing is meant to allow interested parties to fully develop and

articulate the issues and concerns they have with the NPRM so that these concerns can be fully addressed in any final rule that is developed. Interested parties are invited to present oral statements and proffer evidence at the hearing. The hearing will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; as such, there will be no cross-examination of persons presenting statements or proffering evidence. An FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which the initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

On February 22, 2010, the comment period for the NPRM will reopen for fourteen (14) days so that FRA can make the public hearing transcript available for review and comment by the general public, interested parties can provide additional comments and documents related to the NPRM, and interested parties can provide responses to matters that arise at the public hearing.

#### Public Participation Procedures

Any person wishing to participate in the public hearing should notify the FRA's Docket Clerk by mail, Michelle Silva, Office of Chief Counsel, FRA, 1200 New Jersey Ave. SE., Room W31-109, Washington, DC 20590, or e-mail ([Michelle.Silva@dot.gov](mailto:Michelle.Silva@dot.gov)), or at the fax number 202-493-6068, at least five (5) working days prior to the date of the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address and other contact information. FRA reserves the right to limit participation in the hearing by persons who fail to provide such notification.

#### Privacy Act

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000

(65 FR 19477-78) or you may visit <http://www.regulations.gov/search/footer/privacyanduse.jsp>.

Issued in Washington, DC, on January 11, 2010.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development, Federal Railroad Administration.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 395

[Docket No. FMCSA-2004-19608]

RIN 2126-AB26

#### Hours of Service

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

**ACTION:** Notice of public listening session.

**SUMMARY:** FMCSA announces that it will hold a public listening session (in addition to those identified in a Federal Register notice on January 5, 2010) to solicit comments and information on potential hours-of-service (HOS) regulations. Specifically, the Agency wants to know what factors, issues, and data it should be aware of as it prepares to issue a notice of proposed rulemaking (NPRM) on HOS requirements for property-carrying commercial motor vehicle (CMV) drivers. This session will be held in the Davenport, Iowa area. The listening session will allow interested persons to present comments, views, and relevant research on revisions FMCSA should consider in its forthcoming rulemaking. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration.

**DATES:** This listening session will be held on Thursday, January 28, 2010, in Davenport, Iowa. It will begin at 1 p.m. local time and end at 9 p.m., or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The January 28 meeting will be held in Davenport, Iowa, at the Comfort Inn Hotel and Suites, 8300 Northwest Boulevard, Davenport, Iowa 52806 (563-324-8300).

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2004-19608 using any of the following methods:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the