

Issued on: January 12, 2016.

**Brigitte Mandel,**

*Acting Division Administrator, Federal Highway Administration, Salt Lake City, Utah.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Transportation Project in and Between the States of New York and New Jersey: Cross Harbor Freight Program, Tier 1 Final Environmental Impact Statement

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

**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(l)(1). The actions relate to the Cross Harbor Freight Program (CHFP) Tier I Final Environmental Impact Statement (Tier I FEIS), and consist of the issuance by FHWA of a record of decision (ROD), dated December 9, 2015, with respect to the Tier I FEIS. The Federal actions, taken as a result of a tiered environmental review process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4351) and implementing regulations on tiering (40 CFR 1502.20, 40 CFR 1508.28, and 23 CFR part 771), determined certain issues relating to the proposed projects. Those Tier 1 decisions will be used by Federal agencies in subsequent proceedings, including decisions whether to grant licenses, permits, and approvals for highway, rail, and transit projects. Tier 1 decisions may also be relied upon by State and local agencies in proceedings on the proposed projects.

**DATES:** By this notice, the FHWA is advising the public that it has made decisions that are subject to 23 U.S.C. 139(l)(1) and are final within the meaning of that law. A claim seeking judicial review of the Tier 1 Federal agency decisions on the proposed highway, rail, and transit projects will be barred unless the claim is filed on or before June 20, 2016.

**FOR FURTHER INFORMATION CONTACT:** For FHWA: Mr. Peter W. Osborn, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207;

telephone (518) 431-4127; *Peter.Osborn@dot.gov*. FHWA New York Division Office's normal business hours are 7:30 a.m. to 4:00 p.m., e.t.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA has issued a Tier 1 FEIS and an ROD in connection with the proposed CHFP that aims to improve the movement of goods in the greater New York/New Jersey region by enhancing the transportation of freight across New York Harbor (Harbor). As part of the CHFP, FHWA and the Port Authority of New York and New Jersey (PANYNJ) are undertaking a tiered environmental impact statement process, pursuant to the NEPA, which studies the goods movement system serving the region today, and considers how that system could be improved through various alternatives for the transportation of freight across the Harbor.

Tier I broadly examined the potential transportation and environmental effects from a range of alternatives, with the goal of selecting those alternative(s) for further study and potential implementation.

FHWA and the PANYNJ issued a Tier I Draft Environmental Impact Statement (Tier I DEIS) in November 2014 for public review and comment. The Tier I DEIS analyzed 10 Build Alternatives and a No Action Alternative. The project team used a variety of forums to engage stakeholders and solicit public comment on the Tier I DEIS, including scoping meetings; public hearings; briefings for elected officials, community groups, business, environmental, and transportation advocates, and other stakeholders; workshops for Federal, State, and local government agencies having regulatory jurisdiction over, or expertise with respect to, the Alternatives under review; a project Web site; and informational materials made available in English, Chinese, Spanish, and Yiddish.

Based on the findings in the Tier I DEIS, and in consideration of the written and oral comments received from the public, FHWA and PANYNJ issued a Tier I FEIS in September 2015, which included a Response to Comments chapter, and identified two of the Build Alternatives (the Enhanced Carfloat Alternative and the Rail Tunnel Alternative) as Preferred Alternatives that are recommended for more detailed, site-specific review and analysis in a Tier II level of study.

As Federal lead agency, FHWA issued a ROD on December 9, 2015, adopting the recommendations made in the Tier I FEIS and closing out Tier I of the

study. It is important to note that neither the Tier I FEIS, nor the ROD, constitute a decision to implement any of the Alternatives that have been advanced for further consideration.

The actions by FHWA and the laws under which such actions were taken, are described in the Tier I FEIS, the ROD issued on December 9, 2015, and in other documents in the FHWA administrative record. The Tier I FEIS, the ROD, and other documents in the FHWA administrative record file are available by contacting FHWA at the address provided above. The Tier I FEIS and the ROD can be viewed and downloaded from the project Web site at [www.crossharborstudy.com](http://www.crossharborstudy.com).

This notice applies to all Federal agency Tier 1 decisions that are final within the meaning of 23 U.S.C. 139(l)(1) 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 and 23 U.S.C. 128).
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 and 23 U.S.C. 138).
4. Wildlife: Endangered Species Act (16 U.S.C. 1532-1544 and Section 1536); Fish and Wildlife Coordination Act (16 U.S.C. 661-667(d)); and Migratory Bird Treaty Act (16 U.S.C. 703-712).
5. Wetlands and Water Resources: Safe Drinking Water Act (42 U.S.C. 300(f)-300(j)(6)); Wild and Scenic Rivers Act (16 U.S.C. 1271-1287); and Wetlands Mitigation (23 U.S.C. 103(b)(6)(M) and 133(b)(11)).
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470(f) et seq).
7. Social and Economic: Civil Rights Act of 1964 (42 U.S.C. 2000(d)-2001(d)(1)); and American Indian Religious Freedom Act (42 U.S.C. 1966).
8. 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; and E.O. 11514 Protection and Enhancement of Environmental Quality.
9. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601-9675); Superfund Amendments and

Reauthorization Act of 1986 (SARA); and Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6992(k)).

(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. 139(f)(1).

Issued on: December 9, 2015.

**Peter W. Osborn,**

*Division Administrator, Albany, New York.*

[FR Doc. 2016–00687 Filed 1–21–16; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of random drug and alcohol testing rates for 2016.

**SUMMARY:** This notice announces the random testing rates for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules for 2016.

**DATES:** *Effective Date:* January 1, 2016.

**FOR FURTHER INFORMATION CONTACT:** Iyon Rosario, Drug and Alcohol Program Manager for the Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone: 202–366–2010 or email: [Iyon.Rosario@dot.gov](mailto:Iyon.Rosario@dot.gov)).

#### SUPPLEMENTARY INFORMATION:

On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing employees performing safety-sensitive functions and submit annual reports by March 15 of each year beginning in 1996. The annual report includes the number of employees who had a verified positive for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported year. Small employers commenced their FTA-required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997. The testing rules were updated on August 1, 2001, and established a random testing rate for prohibited drugs and the misuse of alcohol.

The rules require that employers conduct random drug tests at a rate

equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. However, the rules provide that the drug random testing rate may be lowered to 25 percent if the positive rate for the entire transit industry is less than one percent for two preceding consecutive years. Once lowered, the random rates may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year (positive rate means the number of positive results for random drug tests conducted under 49 CFR 655.45 plus the number of refusals of random tests required by 49 CFR 655.49, divided by the total number of random drug tests, plus the number of refusals of random tests required by 49 CFR part 655).

The alcohol provisions provide that the random rate may be lowered to 10 percent if the violation rate for the entire transit industry is less than 0.5 percent for two consecutive years. It will remain at 25 percent if the violation rate is equal to or greater than 0.5 percent but less than one percent, and it will be raised to 50 percent if the violation rate is one percent or greater for any one year (violation rate means the number of covered employees found during random tests administered under 49 CFR 655.45 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by 49 CFR 655.49, divided by the total reported number of random alcohol tests plus the total number of refusals of random tests required by 49 CFR part 655).

Pursuant to 49 CFR 655.45(b), the Administrator's decision to increase or decrease the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire industry. The information used for this determination is drawn from the drug and alcohol Management Information System (MIS) reports required by 49 CFR part 655. In determining the reliability of the data, the Administrator considers the quality and completeness of the reported data, or may obtain additional information or reports from employers, and make appropriate modifications in calculating the industry's verified positive results and violation rates.

The Administrator has determined the random drug testing rate will remain at 25 percent for 2016 due to an industry positive rate lower than 1.0 percent for random drug test data for the two preceding calendar years. The random drug rates for the two preceding years

are .87 percent for 2014 and .90 percent for 2015.

The Administrator has also determined the random alcohol testing rate for 2016 will remain at 10 percent because the random alcohol violation rate for the industry was again lower than 0.5 percent for the two preceding consecutive years. The random alcohol rates for the two preceding years are 0.14 percent for 2014 and 0.14 percent for 2015.

Detailed reports on the FTA drug and alcohol testing data collected from transit employers may be obtained from the FTA, Office of Safety and Oversight, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2010 or at <http://transit-safety.fta.dot.gov/publications/Default.aspx>.

Issued in Washington, DC, pursuant to authority under 49 CFR 1.91.

**Therese W. McMillan,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0106; Notice 1]

#### Notice of Receipt of Petition for Decision That Nonconforming Model Year 2008–2010 Alfa Romeo 8C Spider Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2008–2010 Alfa Romeo 8C Spider passenger cars (PC) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

**DATES:** The closing date for comments on the petition is February 22, 2016.

**ADDRESSES:** Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

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