

NN states in its petition that these cars are used in tourist, historic, and/or excursion operations. The cars always remain on NN track. NN is a non-insular tourist railroad that is not connected to the general system. The purpose of this waiver petition is to maintain the historic integrity of this railroad, which has been recognized by the Secretary of the Interior as a national Historic Landmark.

NN further states that the subject cars will not carry freight but rather will be photographed by photographers from around the world. The cars will be operated at no more than 25 mph. The cars would be operated over 30 miles of track. Each car will be inspected to ensure safe operation of the car. These cars will not and cannot leave NN property.

As information, NN concurrently requests to continue in service these 5 cars in accordance with 49 CFR 215.203(c), as they are all over 50 years of age, measured from the date of original construction.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by March 10, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

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**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Limitation on Claims Against Proposed Public Transportation Projects

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

**ACTION:** Notice.

**SUMMARY:** This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Phoenix, Arizona and New York, New York. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

**DATES:** By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before June 23, 2017.

**FOR FURTHER INFORMATION CONTACT:** Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353-2577 or Meghan Kelley,

Environmental Protection Specialist, Office of Environmental Programs, (202) 366-6098. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at <https://www.fta.dot.gov>.

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321-4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401-7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. **Project name and location:** South Central Light Rail Extension Project, Phoenix, AZ. **Project sponsor:** Valley Metro. **Project description:** The proposed project would extend light rail service approximately five miles south from the existing Valley Metro light rail line in Downtown Phoenix to Baseline Road, serving South Phoenix neighborhoods and activity centers and providing a direct link to Central Station in Downtown Phoenix. The project would connect with the existing Valley Metro light rail line in the northbound direction at Central Avenue and Washington Street and in the southbound direction at 1st Avenue and Jefferson Street. The project also includes the McKinley Street/Central Avenue and McKinley Street/1st Avenue turnaround loops and improvements to the Operation and Maintenance Center. **Final agency actions:** Section 4(f) *de minimis* impact determination; a Section 106

Memorandum of Agreement, dated January 3, 2017; project-level air quality conformity; and a Finding of No Significant Impact, dated January 6, 2017. *Supporting Documentation:* Environmental Assessment, dated May 2016.

2. *Project name and location:* 68th Street/Hunter College Station Improvement Project, New York, NY. *Project sponsor:* Metropolitan Transportation Authority (MTA). *Project description:* The proposed project would reconfigure the 68th Street/Hunter College Subway Station located at Lexington Avenue and East 68th Street in Manhattan to provide Americans with Disabilities Act (ADA) accessibility and improve passenger circulation. The project would make changes at the street, mezzanine, and platform levels, including new street stairs, new mezzanines, and new platform stairs near the north end of the station. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of no adverse effect; and a Finding of No Significant Impact, dated July 28, 2016. *Supporting Documentation:* Environmental Assessment, dated February 2016.

**Lucy Garliauskas,**

*Associate Administrator Planning and Environment.*

[FR Doc. 2017-01449 Filed 1-23-17; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

[Docket No. PHMSA-2016-0163; PDA-39(R)]

**Hazardous Materials: Oregon Hazardous Waste Management Regulation**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Public Notice and Invitation to comment.

**SUMMARY:** Interested parties are invited to comment on an application by NORA, An Association of Responsible Recyclers (NORA) for an administrative determination as to whether Federal hazardous material transportation law preempts a hazardous waste regulation of the State of Oregon that imposes a strict liability standard on transporters.

**DATES:** Comments received on or before March 10, 2017 and rebuttal comments received on or before April 24, 2017 will be considered before an administrative

determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

**ADDRESSES:** NORA's application and all comments received may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. The application and all comments are available on the U.S. Government *Regulations.gov* Web site: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2016-0163 and may be submitted by any of the following methods:

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

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

- *Hand Delivery:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

A copy of each comment must also be sent to (1) Scott D. Parker, Executive Director, NORA, An Association of Responsible Recyclers, 7250 Heritage Village Plaza, Suite 201, Gainesville, VA 20155, and (2) Ellen Rosenblum, Attorney General, Justice Building, 1162 Court Street NE., Salem OR 97301. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to Mr. Parker and Ms. Rosenblum at the addresses specified in the Federal Register.")

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing a comment 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>.

A subject matter index of hazardous materials preemption cases, including a

listing of all inconsistency rulings and preemption determinations, is available through PHMSA's home page at <http://phmsa.dot.gov>. From the home page, click on "Hazardous Materials Safety," then on "Standards & Rulemaking," then on "Preemption Determinations" located on the right side of the page. A paper copy of the index will be provided at no cost upon request to Mr. Lopez, at the address and telephone number set forth in the **FOR FURTHER INFORMATION CONTACT** section below.

**FOR FURTHER INFORMATION CONTACT:** Vincent Lopez, Office of Chief Counsel (PHC-10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone No. 202-366-4400; facsimile No. 202-366-7041.

**SUPPLEMENTARY INFORMATION:**

**I. Application for a Preemption Determination**

NORA has applied to PHMSA for a determination whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts the State of Oregon's Administrative Rule (OAR), OAR 340-100-0002(1)<sup>1</sup>, as it is applied to transporters. Specifically, NORA states that the Oregon Environmental Quality Commission (OEQC) interprets the Oregon regulation, which adopts the United States Environmental Protection Agency's regulation, 40 CFR 263.20(a)(1), as imposing a strict liability standard on transporters of hazardous waste.<sup>2</sup> According to NORA, under Oregon law, "the transporter exercising reasonable care may not rely on the information provided by the generator and instead must be held to a strict liability standard." (emphasis omitted).

NORA presents three main arguments for why it believes Oregon's hazardous waste regulation should be preempted. First, NORA contends that it is not possible to comply with both the Oregon rule and the federal requirements because the "HMTA regulation requires the transporter to exercise reasonable care" while Oregon's strict liability interpretation does not. Next, NORA argues that

<sup>1</sup> The Oregon regulation adopts by reference the United States Environmental Protection Agency's rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as prescribed in 40 CFR parts 260 to 268, 270, and 273, and subparts A and B of part 124. See OAR 340-100-0002(1).

<sup>2</sup> NORA states that this issue is being litigated and is presently under consideration by the Oregon Supreme Court.