

*V permits*<sup>12</sup> that covers the cost of implementation and enforcement of PSD and NNSR permits after they have been issued. EPA has made the preliminary determination that Kentucky's SIP and practices adequately provide for permitting fees related to the 2015 8-hour ozone NAAQS, when necessary. Accordingly, EPA is proposing to approve Kentucky's infrastructure SIP submission with respect to section 110(a)(2)(L).

13. 110(a)(2)(M) *Consultation and Participation by Affected Local Entities*: Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. Kentucky regulation, 401 KAR 50:066. *Conformity of transportation plans, programs, and projects*, and the interagency consultation process as directed by Kentucky's approved Conformity SIP and 40 CFR 93.112 provide for consultation with local groups. More specifically, Kentucky adopted state-wide consultation procedures for the implementation of transportation conformity which includes the development of mobile inventories for SIP development and the requirements that link transportation planning and air quality planning in nonattainment and maintenance areas. Required partners covered by Kentucky's consultation procedures include Federal, state and local transportation and air quality agency officials. Further, Kentucky's ozone infrastructure SIP submission notes that the following State regulations and State statutes provide the Commonwealth the authority to meet the requirements of this element; 401 KAR 52:100. *Public, Affected State, and the U.S. EPA Review*; and KRS Chapter 77. *Air Pollution Control*. EPA has made the preliminary determination that Kentucky's SIP and practices adequately demonstrate consultation with affected local entities related to the 2015 8-hour ozone NAAQS when necessary.

#### V. Proposed Action

With the exception of interstate transport provisions of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 and 2), PSD provisions related to major sources under section 110(a)(2)(C), 110(a)(2)(D)(i)(II) (prong 3) and 110(a)(2)(J), and air quality models of section 110(a)(2)(K), EPA is proposing to approve Kentucky's January 9, 2019, infrastructure SIP submission for the 2015 8-hour ozone NAAQS for the above described infrastructure SIP

requirements. EPA is proposing to approve these portions of Kentucky's infrastructure SIP submission for the 2015 8-hour ozone NAAQS because these aspects of the submission are consistent with section 110 of the CAA.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: February 27, 2020.

**Mary S. Walker,**

*Regional Administrator, Region 4.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 299

[Docket No. FRA-2019-0068, Notice No. 2]

RIN 2130-AC84

#### Texas Central Railroad High-Speed Rail Safety Standards

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

**ACTION:** Proposed rule; announcement of public hearings.

**SUMMARY:** On March 10, 2020, FRA published a notice of proposed rulemaking (NPRM) that would establish safety standards for the Texas Central Railroad (TCRR) high speed rail system. FRA is announcing three public hearings to provide members of the public an opportunity to provide oral comments on the proposed safety requirements.

**DATES:** The public hearings will be conducted on the following dates at the following times (members of the public will be able to access the hearing location 30 minutes prior to the start of each hearing):

- *Dallas, TX:* March 31, 2020, from 4 p.m. (CDT) to 9 p.m. (CDT).
- *Navasota, TX:* April 1, 2020, from 5 p.m. (CDT) to 9 p.m. (CDT).
- *Houston, TX:* April 2, 2020, from 5 p.m. (CDT) to 9 p.m. (CDT).

<sup>12</sup> This rule is not approved into the federally approved SIP.

The comment period for the proposed rule published on March 10, 2020 (85 FR 14036), closes on May 11, 2020.

Written comments in response to views or information provided at the public hearings must be received by that date.

**ADDRESSES:** The public hearings will be at the following locations:

- *Dallas, TX:* Waxahachie Civic Center, 2000 Civic Center Ln, Waxahachie, TX 75165.
- *Navasota, TX:* Grimes County Fairgrounds and Expo Center, 5220 FM 3455, Navasota, Texas 77868.
- *Houston, TX:* Waller High School Auditorium, 20950 Field Store Rd, Waller, TX 77484.

Written comments in response to views or information provided at the public hearings may be submitted by any of the methods listed in the NPRM. See 85 FR 14036.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenton Kilgore, Program Analyst, U.S. Department of Transportation, Federal Railroad Administration, Office of Railroad Safety, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: (202) 493-6286; email: [Kenton.Kilgore@dot.gov](mailto:Kenton.Kilgore@dot.gov)).

#### **SUPPLEMENTARY INFORMATION:**

##### **Prior Public Engagement as Part of the Environmental Review Process**

During the environmental review process, FRA provided many opportunities for public involvement and engagement, beginning with 12 public scoping meetings held in various locations in Texas in October and December of 2014. On December 22, 2017, FRA published the draft environmental impact statement (EIS) for this project. FRA then conducted 11 public hearings regarding the draft EIS along the proposed alignment. In addition to providing a forum to present oral comments and submit written comments, the public hearings for the draft EIS included an information session where the public had an opportunity to review project exhibits (such as maps of the proposed alignments) and engage with FRA and TCRR regarding the environmental review. During the 77-day comment period on the draft EIS, which closed on March 9, 2018, FRA received a total of 21,173 submissions from approximately 6,000 individuals, agencies, elected officials, businesses and organizations.<sup>1</sup>

<sup>1</sup> FRA is considering all comments received and will provide responses to the comments submitted during the public comment period for the draft EIS in the final EIS. FRA anticipates releasing the final EIS in late spring of this year.

##### **Public Hearings To Receive Oral Comment on the NPRM—Purpose and Scope**

As stated above, FRA published the NPRM proposing safety requirements specific to the TCRR high-speed rail system, and opened the public comment period on March 10, 2020. See 85 FR 14036. The public comment period for the NPRM is scheduled to close on May 11, 2020. FRA is holding three public hearings to receive oral comment on the provisions proposed in the NPRM; however, no information session will be conducted. During the hearing conducted in Dallas, TX, FRA will also conduct proceedings under 49 U.S.C. 20306, which are discussed further below.

Members of the public are invited to present oral statements, and to offer information and views about the technical safety requirements proposed in the NPRM at the upcoming hearings. Unlike the public hearings conducted for the environmental review, the purpose and scope of these hearings is to receive oral comments on the technical safety requirements proposed in the NPRM, along with the associated economic analysis. The NPRM public hearings are not a forum for debate on the project as a whole or to provide comment on proceedings outside of the NPRM, such as the environmental review process. Rather, the NPRM hearings are meant to help inform FRA's decisions regarding the technical safety requirements proposed in the NPRM, and associated economic analysis. The hearings on the NPRM will be conducted by representatives of FRA designated under FRA's Rules of Practice (49 CFR 211.25). The rules of evidence will not apply. The hearings will be informal, which means that they are non-adversarial proceedings and there will be no cross examination of persons presenting statements or offering evidence. These hearings are an opportunity to provide relevant technical information to FRA regarding the proposed requirements, and associated economic analysis, and a mechanism to place that information on the record for review and consideration by FRA.

##### **Exemption for Technological Improvements—Proceedings Under 49 U.S.C. 20306**

As noted above, as part of the hearing conducted in Dallas, TX, FRA will conduct proceedings under 49 U.S.C. 20306 to determine whether to invoke its discretionary authority to provide relief to TCRR from certain requirements of 49 U.S.C. ch. 203 for its

planned operation of new high-speed trainsets built to the proposed requirements contained in the NPRM. FRA will conduct these proceedings during the first hour of the hearing.

Under 49 U.S.C. 20306, FRA may exempt TCRR from the above-identified statutory requirements based on evidence received and findings developed at a hearing demonstrating that the statutory requirements “preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.” Accordingly, to receive such evidence and develop findings to determine whether FRA should invoke its discretionary authority under 49 U.S.C. 20306 in this instance, proceedings will be conducted as part of the public hearing scheduled for Tuesday, March 31, 2020, at 4:00 p.m. (CDT) at the Waxahachie Civic Center. Interested parties are invited to present oral statements at the hearing regarding the technical information presented in the NPRM addressing the application of 49 U.S.C. ch. 203. Again, as mentioned above, this part of the proceedings will be an informal hearing limited in scope to the technical information presented regarding the proposed requirements concerning safety appliances, and is not a forum to generally debate the project or other proceedings outside of the rulemaking.

In its rulemaking petition, submitted April 16, 2016, TCRR requested FRA exercise its authority under 49 U.S.C. 20306 to exempt its high-speed passenger rail trainsets from the requirements of 49 U.S.C. 20302, mandating that railroad vehicles be equipped with (1) secure sill steps and efficient hand brakes; (2) secure grab irons or handholds on vehicle ends and sides for greater security to individuals coupling and uncoupling vehicles; and (3) the standard height of drawbars. See 49 U.S.C. 20302(a)(1)(B), (a)(2), and (a)(3).

In support of its request for an exemption, TCRR noted in its petition that safety appliances such as sill steps or end or side handholds are typically used in conventional North American practice by maintenance personnel who ride the side of trainsets in yards or maintenance facilities for marshalling operations. The N700 series trainset, as proposed in the NPRM, is a fixed-consist trainset where trainset make-up only occurs in defined locations where maintenance personnel can safely climb on, under, or between the equipment, consistent with the protections afforded under 49 CFR part 218. Additionally, the leading and trailing ends of the

N700 series trainset are equipped with an automatic coupler located behind a removable shroud. These couplers, as proposed by TCRR, will only be used for rescue operations in accordance with TCRR's operating rules, and provide for the safe coupling of one trainset to another (*i.e.*, each end will have automatic self-centering couplers that couple to other trainsets on impact and uncouple by mechanisms that do not require a person to go between trainsets or the activation of a traditional uncoupling lever). Further, as proposed, level boarding will be provided at all locations in trainset maintenance facilities where crew and maintenance personnel are normally required to access or disembark trainsets. Moreover, because the equipment is a fixed-consist trainset in which individual vehicles are semi-permanently coupled and, as noted above, individual vehicles can only be disconnected in repair facilities where personnel can work on, under, or between units under protections consistent with 49 CFR part 218, having drawbars at the statutorily prescribed height is unnecessary.

As such, there is not a functional need to equip the ends of the trainsets with sill steps, end or side handholds, or uncoupling levers. As this technology is intended to operate at high-speeds, the inclusion of these appurtenances would have a significant and detrimental impact on the aerodynamics of the trainset. This increase in the aerodynamic footprint would negatively impact both efficiency and aerodynamic noise emissions.

TCRR also noted that trainset securement will be provided by the use of wheel chocks in addition to stringent operating rules and procedures, which will be consistent with the service-proven procedures utilized on the Tokaido Shinkansen. Additionally, as proposed in the NPRM, TCRR will be required to demonstrate, as part of its vehicle qualification procedures, that the procedures effectively secure the trainset (see proposed § 299.607).

In sum, TCRR asserted that requiring compliance with the identified statutory requirements would serve to preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

#### **Procedures for Public Participation in the Hearings on the NPRM**

At each NPRM hearing, FRA representatives will make opening statements reiterating the scope of the hearing as described above, and any relevant procedures to be followed at the hearing. Following FRA's opening statements, there will be an opportunity for members of the public to present a brief oral comment on the record. Time permitting, FRA will allow everyone who desires to provide an oral comment at a hearing the opportunity to do so. Those members of the public wishing to make a statement at the hearing will be required to sign up to do so at the hearing location prior to the commencement of the proceeding.

FRA will generally limit the duration of individual presentations, as necessary, to afford all persons who

wish to speak the opportunity to do so. However, during the proceedings under 49 U.S.C. 20306, in Dallas, TX, TCRR may be afforded additional time to present information to support its request for FRA to invoke its discretionary authority under 49 U.S.C. 20306.

FRA will announce additional procedures that may be necessary for the conduct of each hearing, at each hearing, to include the specific time limit for individual presentations, which will be based on the number of people who sign up to provide comment at each hearing. FRA reserves the right to limit participation in the hearing of persons who exceed their allotted time, or who discuss topics or issues outside the scope of the proposed rulemaking.

There will be a court reporter present to record and transcribe oral comments presented at each hearing verbatim. FRA will add the transcripts of the hearings to the public docket in this rulemaking proceeding.

For information on facilities or services for persons with disabilities, or to request special assistance at the hearing, contact FRA Program Analyst, Mr. Kenton Kilgore, by telephone, email, or in writing, at least 5 working days before the date of the hearing by one of the means listed in the **FOR FURTHER INFORMATION CONTACT** section.

**John Karl Alexy,**

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

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