

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket Number FRA–2010–0043]

Northern Indiana Commuter Transportation District's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

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

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that, on March 29, 2024, the Northern Indiana Commuter Transportation District (NICD) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA involves a request for FRA's approval of a proposed material modification to an FRA-certified positive train control (PTC) system related to the design and implementation of a new Back Office Server, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

DATES: FRA will consider comments received by April 30, 2024. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES: *Comments:* Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0043. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system

complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on March 29, 2024, NICD submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System (I-ETMS), which seeks FRA's approval for the design and implementation of a new Back Office Server. That RFA is available in Docket No. FRA–2010–0043.

Interested parties are invited to comment on NICD's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://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* <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,
Director, Office of Railroad Systems and Technology.

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DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration**

[Docket No. FRA–2024–0039]

Renewal Package From the State of California to the Surface Transportation Project Delivery Program and Proposed Memorandum of Understanding (MOU) Assigning Environmental Responsibilities to the State

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

ACTION: Notice, request for comments.

SUMMARY: This notice announces that FRA has received and reviewed a renewal package from the State of California (State) acting through the California State Transportation Agency (CalSTA) and California High-Speed Rail Authority (Authority) requesting renewed participation in the Surface Transportation Project Delivery Program (Program). Under the Program, FRA may assign, and the State may assume, responsibilities under the National Environmental Policy Act (NEPA), and all or part of FRA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental laws with respect to one or more railroad projects within the State. FRA has determined the renewal package to be complete, and developed a draft renewal MOU with CalSTA and the Authority outlining how the State will implement the Program with FRA oversight. The public is invited to comment on the State's request, including its renewal package and the proposed renewal MOU, which includes the proposed assignments and assumptions of environmental review, consultation, and other activities.

DATES: Comments must be received on or before May 10, 2024.

ADDRESSES: Comments related to Docket No. FRA–2024–0039 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must refer to the Federal Railroad Administration and the docket number in this notice (FRA–2024–0039). Note that all submissions received, including any personal information provided, will

be posted without change and will be available to the public on <https://www.regulations.gov>. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or at <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, for FRA, please contact Ms. Lana Lau, Supervisory Environmental Protection Specialist, Office of Environmental Program Management, Federal Railroad Administration, telephone (202) 923-5314, email: Lana.Lau@dot.gov. For the Authority, please contact Mr. Scott Rothenberg, NEPA Assignment Manager, Environmental Services, California High-Speed Rail Authority, telephone: (916) 403-6936; email: Scott.Rothenberg@hsr.ca.gov.

SUPPLEMENTARY INFORMATION:

Background: Section 327 of Title 23, United States Code (23 U.S.C. 327) establishes the Surface Transportation Project Delivery Program (Program). It allows the Secretary of the U.S. Department of Transportation (Secretary) to assign, and a State to assume, responsibility for all or part of the Secretary's responsibilities for environmental review, consultation, or other actions required under NEPA (42 U.S.C. 4321 *et seq.*) and any Federal environmental law with respect to one or more highway projects within the State, as well as one or more railroad, public transportation, and/or multimodal projects.¹ FRA is authorized to act on behalf of the Secretary with respect to these matters for railroad projects.

The State of California initially participated in the Federal Highway Administration's (FHWA) Surface Transportation Project Delivery Pilot Program (a predecessor to the Program) from July 1, 2007, through September 30, 2012. In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) amended 23 U.S.C. 327 to establish the permanent Program. As a result, on October 1, 2012, the State, acting through Caltrans, entered into a MOU with FHWA that bridged the pilot Program with the Program. Previously, MOUs under the Program included a term of 5 years. However, in 2021, the Infrastructure Investment and Jobs Act amended 23 U.S.C. 327 to require MOUs to have a term of 10 years if the state has participated in the Program (or

predecessor program) for at least 10 years. The State has participated in the Program for 15 years, including the State's participation in the pilot program.

On July 23, 2019, the State of California, acting through CalSTA and the Authority, assumed FRA's responsibilities for one or more railroad projects in the state, after submitting its application to FRA, obtaining FRA's approval, and entering into an MOU in accordance with 23 U.S.C. 327 and the application regulations for the Program (23 CFR part 773). On May 22, 2023, the Secretary of CalSTA notified FRA of its intention to renew its participation in the Program. On July 21, 2023, the Authority submitted a Summary of Key Changes, which summarized the State's proposed changes to its NEPA Assignment program and requested FRA's determination on whether the proposed changes constituted changes warranting statewide notice for public comment prior to the formal submittal of the renewal application. On January 4, 2024, FRA concluded that no significant changes were proposed, or new assignment responsibilities sought, that would warrant statewide notice for public comment before the Authority formally submits a renewal application to FRA. On January 25, 2024, the State submitted the renewal package in accordance with 23 CFR 773.115. Since the State's submittal, FRA and the State have made minor changes to Section 3.3.1 of the MOU to clarify the types of projects that would be suitable for assignment, and these changes are included in the proposed renewal MOU.

Under the proposed renewal MOU, FRA would assign to the State, acting through CalSTA and the Authority, the responsibility for making decisions on railroad projects as described in the State's application and in Section 3.3 of the draft renewal MOU. Excluded from assignment are the following:

(1) Railroad projects that cross state boundaries or that cross or are adjacent to international boundaries. For purposes of the State's application and the proposed renewal MOU, a project is considered "adjacent to international boundaries" if it requires the issuance of a new, or modification of an existing, Presidential Permit.

(2) As provided at 23 U.S.C. 327(a)(2)(D), any railroad project that is not assumed by the State as identified in the State's application and the proposed renewal MOU, remains the responsibility of FRA.

Under the proposed renewal MOU, State, acting through CalSTA and CHSRA, would also assume the responsibility to conduct the following

environmental review, consultation, and other related activities for project delivery:

Environmental Review Process

Efficient environmental reviews for project decision-making, 23 U.S.C. 139 Efficient environmental reviews, 49 U.S.C. 24201

Air Quality

Clean Air Act (CAA), 42 U.S.C. 7401-7671q, with the exception of any project-level general conformity determinations

Noise

Noise Control Act of 1972, 42 U.S.C. 4901-4918

Wildlife

Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531-1544
Marine Mammal Protection Act, 16 U.S.C. 1361-1423h
Anadromous Fish Conservation Act, 16 U.S.C. 757a-757f
Fish and Wildlife Coordination Act, 16 U.S.C. 661-667d
Bald and Golden Eagle Protection Act, 16 U.S.C. 668-668d
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. 1801-1891d

Hazardous Materials Management

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601-9675
Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 9671-9675
Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901-6992k

Historic and Cultural Resources

National Historic Preservation Act of 1966, as amended, 54 U.S.C. 300101-307108, *et seq.*
Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469-469c
Archeological Resources Protection Act, 16 U.S.C. 470aa-470mm, Title 54, Chapter 3125—Preservation of Historical and Archeological Data, 54 U.S.C. 312501-312508
Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001-3013; 18 U.S.C. 1170

Social and Economic Impacts

American Indian Religious Freedom Act, 42 U.S.C. 1996
Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201-4209

¹ The Secretary may not assign its responsibility for making any conformity determination required under section 176 of the Clean Air Act. Also not assignable is Government to Government consultation with federally recognized Indian Tribes.

Water Resources and Wetlands

Clean Water Act, 33 U.S.C. 1251–1387 (Sections 401, 402, 404, 408, and Section 319)
 Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–26
 Rivers and Harbors Act of 1899, 33 U.S.C. 401 and 403
 Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
 Emergency Wetlands Resources Act, 16 U.S.C. 3901 and 3921
 Flood Disaster Protection Act, 42 U.S.C. 4001–4133
 General Bridge Act of 1946, 33 U.S.C. 525–533
 Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
 Coastal Zone Management Act, 16 U.S.C. 1451–1466
 Wetlands Mitigation, 23 U.S.C. 119(g)

Parklands and Other Special Land Uses

49 U.S.C. 303 (Section 4(f))
 Land and Water Conservation Fund (LWCF) Act, 54 U.S.C. 200302–200310

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. 13112, Invasive Species, as amended by E.O. 13751, Safeguarding the Nation from the Impacts of Invasive Species
 E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
 E.O. 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
 E.O. 14008, Tackling the Climate Change Crisis at Home and Abroad
 E.O. 14096, Revitalizing Our Nation's Commitment to Environmental Justice for All

The proposed renewal MOU would allow the State, acting through CalSTA and the Authority, to continue to act in the place of FRA in carrying out the environmental review-related functions described above, except with respect to Government-to-Government consultations with federally recognized Indian Tribes. The State, acting through CalSTA and the Authority, would continue to handle routine consultations with the Tribes and understands that a Tribe has the right to direct consultation with FRA upon request. The State, acting through CalSTA and the Authority, may assist FRA with Government-to-Government

consultations, with consent of a Tribe, but FRA remains responsible for the consultation.

In addition, the State, acting through CalSTA and the Authority, would not assume FRA's responsibilities for conformity determinations required under Section 176 of the CAA (42 U.S.C. 7506), or any responsibility under 23 U.S.C. 134 or 135, or under 49 U.S.C. 5303 or 5304.

The MOU content reflects the State's, acting through CalSTA and the Authority, desire to continue its participation in the Program. FRA and the State, acting through CalSTA and the Authority, have agreed to modify some of the provisions in the MOU to, among other things: include an updated list of environmental laws, presidential executive orders and related guidance, including added references to Title VI of the Civil Rights Act of 1964 and environmental justice; provide updated Program information, organization charts, and staffing structure; and provide updated policies and processes, including updates to monitoring and oversight and quality assurance and quality control (QA/QC).

The Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act, Pub. L. 117–58), enacted on November 15, 2021, amended 23 U.S.C. 327(c)(5) to require that MOUs have a term of 10 years if a State that has participated in the Program (or predecessor program) for at least 10 years. The State has participated in the Program for 15 years, inclusive of the State's participation in the Program and the pilot program with FHWA. Therefore, this proposed renewal MOU will have a term of 10 years.

FRA will consider the comments submitted on the State's application and the proposed renewal MOU. A copy of the renewal package and proposed renewal MOU may be viewed on the docket (FRA–2024–0039) at www.regulations.gov. A copy also may be viewed on the Authority's website at: <https://hsr.ca.gov/programs/>. Any final renewal MOU approved by FRA may include changes based on comments and consultations relating to the proposed renewal MOU and will be made publicly available.

Authority: 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR part 773; 40 CFR 1507.3; and 49 CFR 264.101.

Marlys Ann Osterhues,

Director, Office of Environmental Program Management, Office of Railroad Administration, Federal Railroad Administration.

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DEPARTMENT OF TRANSPORTATION**Federal Transit Administration**

[Docket No. FTA–2023–0010]

National Public Transportation Safety Plan

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability and response to comments.

SUMMARY: The Federal Transit Administration (FTA) has placed into the docket and on its website the final National Public Transportation Safety Plan (National Safety Plan) that is intended to guide the national effort to manage safety risk in our nation's public transportation systems. The updated National Safety Plan establishes performance measures for Public Transportation Agency Safety Plans (PTASP), including measures for safety risk reduction programs, to improve the safety of public transportation systems that receive FTA Federal financial assistance. Transit agencies will set performance targets based on the measures in order to monitor and assess the safety performance of their public transportation systems.

DATES: The applicable date of the National Safety Plan is April 10, 2024.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Arnebya Belton, Office of Transit Safety and Oversight, 202–366–7546 or arnebya.belton@dot.gov. For legal matters, contact Emily Jessup, Office of Chief Counsel, (202) 366–8907 or emily.jessup@dot.gov.

SUPPLEMENTARY INFORMATION:**Availability of Final Plan**

This notice provides responses to comments received on the proposed updates to the National Safety Plan and discusses the changes made to the National Safety Plan in response. The National Safety Plan itself is not included in this notice; instead, an electronic version is available on FTA's website, at: <https://www.transit.dot.gov/regulations-and-guidance/safety/national-public-transportation-safety-plan>, and in the docket, at <https://www.regulations.gov/docket/FTA-2023-0010>.

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