Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive to *http://www.regulations.gov* in their entirety, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, or labor union).

Docket: To read the entire petition for exemption, background documents, or comments received, go to *http://www.regulations.gov* or to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madeleine Kolb, Transport Airplane Directorate, FAA at 425–227–1134.

This notice is published pursuant to 14 CFR 11.85.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2007–0042.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: §§ 25.305, 25.307(a), 25.601, 25.603(c), 25.613(a)(b), and 25.1103(d).

Description of relief sought: The exemption, if granted, would affect Boeing 737NG airplanes delivered prior to May 2007 and would permit installation of a new engine configuration, improved thrust reverser cascade configuration, or other changes without requiring a complete finding of compliance for the affected areas.

[FR Doc. E7–21621 Filed 11–1–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Cook and DuPage Counties, Illinois

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Tier One Environmental Impact Statement will be prepared for the Elgin O'Hare–West Bypass study in Cook and DuPage Counties, Illinois.

FOR FURTHER INFORMATION CONTACT: Norman R. Stoner, P.E., Division Administrator, Federal Highway Administration, 3250 Executive Park Drive, Springfield, Illinois 62703, Phone: (217) 492–4600. Diane M. O'Keefe, P.E., Deputy Director of Highways, Region One Engineer, Illinois Department of Transportation, 201 West Center Court, Schaumburg, Illinois 60196, Phone: (847) 705–4000.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Illinois Department of Transportation (IDOT), will prepare a Tier One Environmental Impact Statement (EIS) for the Elgin O'Hare–West Bypass study. The study area for the EIS is generally bounded by I–90, I–294, and I–290. The Tier One EIS will complete a broad analysis of transportation system alternative(s) in the study area and evaluate the environmental impacts at a planning level of detail using a Geographic Information System (GIS).

The primary environmental resources that may be affected are: Residential, commercial, and industrial properties; streams and floodplains; wetlands; and open space. This project is being developed using the Illinois Department of Transportation's Context Sensitive Solutions policy. Alternatives to be evaluated will include (1) taking no action; (2) transit improvements; (3) improvements to local roads; (4) a complete system of improvements including limited access highways on existing and new location, transit, transportation system management strategies, and bicycle and pedestrian facilities.

As part of the EIS process, a scoping meeting for obtaining input from Resource Agencies on level of detail and methodologies to be addressed in the Environmental Impact Statement will be held in December 2007. Additional coordination will occur with the Resource Agencies to identify a date and location for the scoping meeting.

A Stakeholder Involvement Plan (SIP), which will meet the SAFETEA–LU Coordination Plan requirements, will be developed to ensure that a full range of issues related to this proposed project are identified and addressed. The SIP provides meaningful opportunities for all stakeholders to participate in defining transportation issues and solutions for the study area. A project Web site has been established (*http://www.elginohare-westbypass.org*) as one element of the project public involvement program.

Comments or questions concerning this proposed action and the Tier One EIS are invited from all interested parties and should be directed to the FHWA at the address provided above. A public hearing will be held after the Tier One draft EIS is published and made available for public and agency review. Public notice will be given of the time and place of public meetings and hearings.

The Tier One EIS will conclude with a Record of Decision selecting a preferred transportation system alternative(s). Following the Tier One EIS, projects with independent utility may be advanced to Tier Two NEPA documents that will focus on detailed environmental analyses.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 29, 2007.

Norman R. Stoner,

P.E., Division Administrator, Springfield, Illinois.

[FR Doc. 07–5450 Filed 11–1–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2004–18898]

Comprehensive Safety Analysis 2010 Initiative

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice of public listening session.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces a public listening session to obtain feedback from interested parties on the Agency's Comprehensive Safety Analysis 2010 (CSA 2010) initiative, a comprehensive review, analysis, and

restructuring of FMCSA's current commercial motor carrier safety and enforcement programs. FMCSA will use the listening session to brief participants on the direction and progress of CSA 2010, and obtain feedback from its partners and stakeholders. FMCSA also requests comments on the CSA 2010 operational model described in this notice.

DATES: The Public Listening Session will be held on December 4, 2007, from 8 a.m. to 3:30 p.m. Participant registration will be from 8 a.m. to 9 a.m. Written comments must be received by January 31, 2008.

Location: The Public Listening Session will be held near Dallas at the Sheraton Arlington Hotel, 1500 Convention Center Drive, Arlington, Texas 76011. The phone number is 817–261–8200.

ADDRESSES: You may submit comments identified by FDMS Docket ID Number FMCSA–2004–18898 and by any of the following methods:

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

Alternatively, you can file comments using the following methods:

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

FOR FURTHER INFORMATION CONTACT: Cathy McNair, Program Manager Assistant, CSA 2010, (202) 366–0790.

SUPPLEMENTARY INFORMATION: *Format of Listening Session:* During the Public Listening Session, FMCSA will describe its progress on CSA 2010 to date. FMCSA will accept comments on the CSA 2010 operational model and any additional information FMCSA should consider for the success of the CSA 2010 initiative.

The session will include a morning plenary session (9 a.m.), and three facilitated breakout sessions. Each breakout session will be run three consecutive times so that all attendees will have the opportunity to participate in all three sessions. Each session will run for 90 minutes, beginning at 10:15 a.m., 12:15 p.m., and 2 p.m. This will allow 15 minutes between each breakout session and 30 minutes for lunch. The three breakout sessions will address specific aspects of the CSA 2010 initiative: (1) Safety Measurement System, (2) Safety Fitness Determination, and (3) Operational Model Test. Attendees will have the opportunity to comment, as well as hear the comments of other stakeholders.

Registration information and instructions: To attend the listening session, attendees can register online at *http://www.fmcsa.dot.gov/csa2010–register.* In addition to registration information, the registration Web site provides additional details about the agenda. If there are any questions, or if an attendee prefers to register via telephone, please contact the registration help desk at (301) 495–8458.

Instructions for submitting written comments: Comments regarding CSA 2010 can be filed with the Federal Docket Management System (FDMS). For detailed instructions on submitting comments see **ADDRESSES** section above. All submissions must include the Agency name and docket identification number for this notice. Note that all comments received will be posted to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Privacy Act: 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 of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000).

Background

In August 2004, FMCSA embarked on CSA 2010—a comprehensive review and analysis of the FMCSA motor vehicle safety compliance and enforcement programs (69 FR 51748, August 20, 2004). The goal of CSA 2010 is the development and deployment of a new operational model, a new approach to using FMCSA resources to identify drivers and motor carriers that pose safety problems and to intervene to address those problems as soon as they become apparent. FMCSA understands how important it is to the success of this initiative to obtain feedback from its partners and stakeholders and other interested parties.

The Agency held a series of public listening sessions on CSA 2010 in September and October of 2004. These sessions were designed to collect public input regarding ways FMCSA could improve its process of monitoring and assessing the safety performance of the motor carrier industry. The majority of participants supported the Agency's goal of improving the current safety fitness determination process through the CSA 2010 initiative. For further information on the public listening sessions held in 2004, visit the FMCSA Web site at *http://www.fmcsa.dot.gov/* (click on the CSA2010 link) and see the final report, ''Comprehensive Safety Analysis Listening Sessions.''

On November 16, 2006, FMCSA held another listening session to gather information and feedback on CSA 2010 from its partners and stakeholders (71 FR 61131, October 17, 2006). The session was held in Washington, DC, with close to 100 attendees that included a cross-section of Federal, state, and local government agencies, motor carriers, industry associations, insurance and consulting firms, and safety advocacy groups. The event included a plenary session and four breakout sessions, which described four major aspects of CSA 2010: (1) Measurement, (2) Safety Fitness Determination, (3) Intervention Selection and Entity Characteristics, and (4) Safety Data and Tracking, Evaluation and Data Validation. Participants at each of the breakout sessions provided valuable information, which FMCSA has taken into account during its continued development of the CSA 2010 operational model. For further information on the public listening sessions held in 2006, visit FDMS Docket Identification Number FMCSA–2004–18898 at *http://www.regulations.gov* and see the final report, ''Comprehensive Safety Analysis 2010, 2006 Listening Session.''

The purpose of the December 2007 public listening session is for FMCSA to brief its stakeholders and partners on the progress that has been made since the listening session in 2006. FMCSA plans to hold additional CSA 2010 listening sessions to continue the process of updating its partners and stakeholders and receive feedback.

Current Operational Model and Its Limitations

FMCSA currently collects several kinds of data on motor carriers, including Federal and state information on crashes and roadside inspections, and enforcement actions. FMCSA uses the data to (1) determine which motor carriers should be selected for on-site compliance reviews, and (2) determine the safety fitness of motor carriers. Currently FMCSA employs SafeStat, an

analytical process that evaluates the safety status of individual motor carriers. SafeStat uses data from a variety of state and Federal sources to measure the relative safety performance and compliance of individual motor carriers in four Safety Evaluation Areas (SEAs): Accident, Driver, Vehicle, and Safety Management. SafeStat is currently used by the FMCSA to identify and prioritize motor carriers for on-site compliance reviews (CRs) and roadside inspections. For a full description of the SafeStat methodology, visit the FMCSA Web site at: *http://ai.fmcsa.dot.gov.*

FMCSA issues a safety fitness determination and a corresponding safety rating as a result of an on-site compliance review (CR). The CR assesses whether a motor carrier's safety management controls are functioning effectively to ensure acceptable compliance with the safety fitness standard found at 49 CFR 385.5. Currently, the safety ratings that can result from a CR are Satisfactory, Conditional, or Unsatisfactory. FMCSA may take enforcement actions against a motor carrier as a result of the CR. A significant limitation of this process is that a motor carrier's safety rating generally cannot change without the conduct of an additional compliance review. As a result, the meaning of a motor carrier's safety rating in terms of being a current assessment of its safety diminishes over time and may be misleading to those that might incorrectly interpret it as a reflection of a motor carrier's current safety status.

FMCSA compliance and safety programs improve and promote safety performance. However, despite increases in the motor carrier population, as well as increased programmatic responsibilities, Agency resources available for these efforts have remained relatively constant over time. Further compounding this limitation in the current process is the fact that the full CR is generally deployed at a carrier's place of business as a one-size-fits-all tool to address what may not be a comprehensive safety problem. In its present structure, the FMCSA compliance review program is resource intensive and reaches only a small percentage of motor carriers. On-site CRs take one safety investigator an average of 3 to 4 days to complete, and are used to determine a motor carrier's safety fitness. At present staffing levels, FMCSA can perform CRs on only a small portion of the 700,000 active interstate motor carriers. These factors have made it increasingly challenging to make sustained improvements to motor carrier safety using existing intervention programs and measurement systems. Moreover, in recent years the decline in the rate of large truck and bus fatalities per 100 million vehicle miles traveled has leveled off.

For these reasons, along with improvements in the quality of data available to FMCSA and improved ways to measure carrier safety, FMCSA is exploring ways through CSA 2010 to improve its current process for monitoring, assessing, and enforcing the safety performance of motor carriers and drivers. The Agency believes that CSA 2010 has the potential to achieve a greater reduction in large truck and bus crashes, and that additional Agency resources would impact this potential crash reduction even more.

Comprehensive Safety Analysis 2010

CSA 2010 is a major FMCSA initiative to improve the effectiveness of the Agency's compliance and enforcement programs. Its ultimate goal is to achieve a greater reduction in large truck and bus crashes, injuries, and fatalities, while making efficient use of the resources of FMCSA and its state partners. In contrast to the Agency's current operational model, CSA 2010 is characterized by (1) a more comprehensive measurement system, (2) a safety fitness determination methodology that is based on performance data and not necessarily tied to an on-site compliance review, and (3) a broader array of progressive interventions. FMCSA believes that CSA 2010 will help the Agency assess the safety performance of a greater segment of the industry and intervene with more carriers to change unsafe behavior earlier.

FMCSA has made significant progress in its development of the CSA 2010 operational model, and is planning on launching a field test of the model beginning in January 2008. There are four major components to CSA 2010: (1) Measurement, (2) Interventions, (3) Safety Fitness Determination, and (4) Information Technology. Each component and its status are described below. While the Agency requests comments on all aspects of the CSA 2010 operational model, there are three specific areas that will be the subjects of the breakout sessions during the upcoming listening session: (1) Safety Measurement System, (2) Safety Fitness Determination, and (3) Operational Model Test. The illustration below demonstrates how the major components of CSA 2010 would work together. In developing the new model FMCSA continues to strive for flexibility, efficiency, effectiveness, innovation, and equity.

CSA 2010 Operational Model

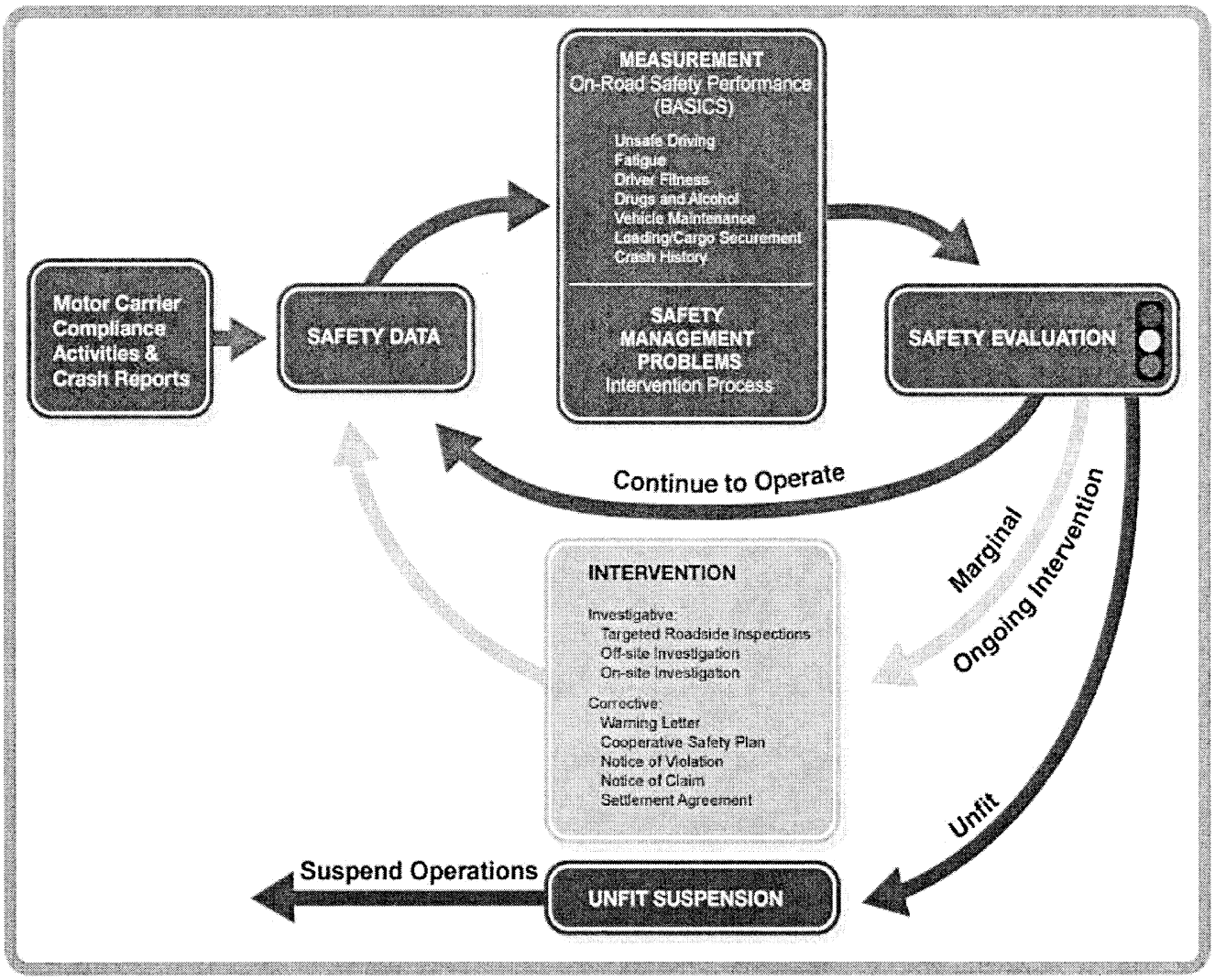

Figure 1

Safety Measurement System—The role of the Safety Measurement System (SMS) within the CSA 2010 operational model is to monitor and quantify the safety performance of motor carriers and drivers through data available in the Motor Carrier Management Information System (MCMIS). Under CSA 2010 these data would include violations found during roadside inspections, traffic enforcement, and the intervention process (discussed below), as well as crashes. SMS would group data into seven Behavioral Analysis Safety Improvement Categories (BASICs), each of which includes regulatory requirements for both motor carriers and drivers.

Unsafe Driving—The operation of commercial motor vehicles in a dangerous or careless manner. Example violations include speeding, reckless driving, improper lane change, and inattention.

Fatigued Driving—The operation of commercial motor vehicles by drivers in non-compliance with the hours-of-service (HOS) regulations. This BASIC focuses on violations of the HOS regulations including violations of driving time limits, driving after reaching on-duty time limits, and failure to maintain complete and accurate log books. This BASIC is not intended to suggest that the Agency has determined that the driver was actually fatigued. Also, instances related to the Fatigued Driving BASIC are distinguished from incidents where unconsciousness or inability to react is brought about by the use of alcohol, drugs, or other controlled substances.

Driver Fitness—The operation of commercial motor vehicles (CMV) by drivers who are unfit to operate a CMV due to lack of training or medical qualifications. Example violations include failure to have a valid and appropriate commercial driver's license and being medically unqualified to operate a CMV.

Controlled Substances and Alcohol—The operation of CMVs by drivers who are in possession of alcohol or illegal drugs, or impaired due to alcohol, illegal drugs, or misuse of prescription or over-the-counter medications. Example violations include the use or possession of controlled substances or alcohol.

Vehicle Maintenance—Commercial motor vehicle failure due to improper or inadequate maintenance. Example violations include brakes, lights, and other mechanical defects, and failure to make required repairs.

Improper Loading/Cargo Securement—CMV incidents resulting from shifting loads, spilled or dropped cargo, and unsafe handling of hazardous materials. Example violations include improper load securement, cargo retention, and hazardous material handling.

Crash—Histories or patterns of crash involvement, including frequency and severity. It is based on information from state-reported crashes.

FMCSA developed the BASICs under the premise that CMV crashes can ultimately be traced to the behavior of motor carriers and drivers. The categories are derived from the existing FMCSA regulatory structure, the Large Truck Crash Causation Study, and other analyses and studies conducted by the Agency.

Four principal steps would be used to assess entity (motor carrier or driver) performance in each BASIC. First, relevant inspection, violation, and crash data from the Motor Carrier Management Information System would be attributed to an entity to create a safety event history. Second, each entity's violations and crashes would be classified into a BASIC. Third, these data would then be time weighted, severity weighted, normalized, and peer grouped to form a quantifiable measure for the entity in each BASIC. In addition, the Safety Measurement System would employ data sufficiency standards to ensure there are enough data to produce meaningful measures of safety performance. Finally, based on a comparison of each entity's BASIC measure to those of its peers, a rank and percentile would be assigned. The motor carrier's score in each BASIC would be based on data from the past 24-months. These steps are illustrated below in Figure 2.

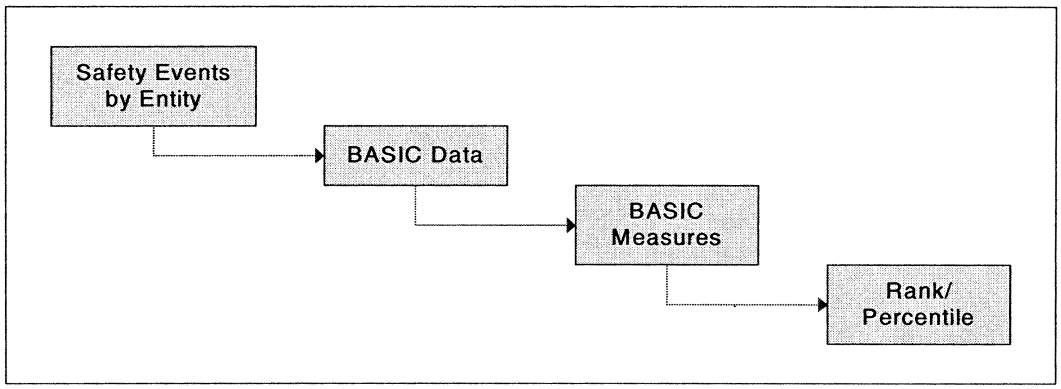

Figure 2

FMCSA anticipates using the SMS results in CSA 2010 to identify and monitor entities with safety problems with respect to its BASICs for inclusion in the intervention process (described below under Interventions). Also, in cases where the SMS results are robust enough to indicate strong crash risk to the public, FMCSA anticipates applying these results along with other factors that could lead to a proposed Unfit safety fitness determination (described below under Safety Fitness Determination). Thus, FMCSA would establish thresholds for each BASIC to trigger the intervention process and play a role in adverse safety fitness determinations.

FMCSA is designing two Safety Measurement Systems—one for carriers, Carrier Safety Measurement System (CSMS), and one for drivers, Driver Safety Measurement System (DSMS). Both systems are in the prototype stage and will be used to support the operational model test discussed below. FMCSA plans to demonstrate the Safety Measurement System during the upcoming listening session.

There are six important differences between the SMS and the Agency's current measurement system, SafeStat:

1. SMS is organized by seven specific behaviors (BASICs) while SafeStat is organized into four general Safety Evaluation Areas (SEAs).
2. SMS identifies safety problems in the same structure in which CSA 2010 addresses those problems, while SafeStat prioritizes carriers for a one-size-fits-all compliance review.
3. SMS uses all safety-based inspection violations while SafeStat uses only out-of-service violations and selected moving violations.
4. SMS uses risk-based violation weightings while SafeStat does not.
5. SMS impacts the safety fitness determination of an entity, while SafeStat has no impact on an entity's safety fitness rating.
6. SMS assesses individual drivers and carriers, while SafeStat assesses only carriers.

Interventions—Over the past year FMCSA has made considerable progress in developing the system of interventions that would be used under CSA 2010. It provides a broad array of tools that would be used in a systematic way to intervene with a carrier and its drivers, depending on the BASIC measures identified by the Safety Measurement System. The interventions are designed to be progressive, increasing in severity and interaction with motor carriers and their drivers. The goal is to use the interventions to reach a larger segment of the motor carrier industry, and to change unsafe behavior early:

Warning Letter—The warning letter would be sent to a motor carrier when its safety performance data exceeds the Safety Measurement System threshold for intervention in one or more BASICs. The letter would advise the motor carrier of the apparent safety problems, and the potential consequences of continued operation in that way. It would also refer the motor carrier to Web-based educational tools and information for self improvement, and the letter would provide the motor carrier with instructions on how to challenge the underlying safety data if the motor carrier believes the data is in error.

Targeted Roadside Inspection—The warning letter would also trigger targeted roadside inspection. The same information on deficient BASICs described in the warning letter would be reflected in roadside information software used by roadside inspectors. This would enable them to monitor the status of those safety problems with that motor carrier, and confirm their existence or correction. This would also help improve the overall effectiveness of roadside inspections.

Off-Site Investigation—The off-site investigation would enable FMCSA and its state partners to evaluate safety problems without the cost of sending enforcement officials to a motor carrier's place of business. It would involve requests for documentation from the carrier and third-parties, and constitute a desktop review of available information to determine the nature and extent of identified safety problems. The off-site investigation would be triggered by persistent safety problems, or those severe enough to warrant investigation.

Focused On-Site Investigation—The focused on-site investigation would take place at the motor carrier's place of business, and would be employed when the carrier exhibits a persistent safety problem in one area. It would enable FMCSA and its state partners to focus on the identified safety problem without spending time and resources where no other safety problems have been identified. It would involve reviewing records, interviewing personnel, analyzing practices, and identifying corrective actions. The focused on-site investigation could be triggered by a continuing deficient or worsening BASIC, or a fatal crash or complaint.

Comprehensive On-Site Investigation—The comprehensive on-site investigation would also take place at the motor carrier's place of business. It would be employed when the carrier exhibits broad and complex safety problems through multiple deficient BASICs, and would be similar to the compliance review conducted under the Agency's current operational model. The comprehensive on-site investigation could be triggered by continuing deficient or worsening multiple BASICs, or a fatal crash or complaint.

Cooperative Safety Plan—The cooperative safety plan (CSP) could be triggered after investigation reveals safety problems for which the motor carrier expresses a *willingness to remedy*. It could be used to support safety improvements before the levying of fines. It would be a structured plan developed and implemented voluntarily by the motor carrier. The CSP would be the motor carrier's action plan to address safety problems. The Agency would monitor the carrier's safety performance, and increase intervention if performance does not improve.

Notice of Violation—The purpose of the notice of violation would be to increase the motor carrier's awareness of enforcement intent on the part of the Agency. It could be useful where the violation is immediately correctable. It would put the carrier on notice of specific regulatory violations. The motor carrier would then have to provide evidence of corrective action, or successfully challenge the identified safety violations. The notice of violation could provide the motor carrier with motivation to change unsafe behavior to avoid a fine.

Notice of Claim—The purpose of the notice of claim is to deter severe or persistent unsafe behavior. It is issued as a formal document and served on the violator to compel compliance. The notice of claim would be triggered by evidence of a severe regulatory violation or history of violations, sufficient to justify assessment of penalties.

Settlement Agreement—The purpose of the settlement agreement is to contractually bind the motor carrier to take actions to improve safety. The motor carrier is given the opportunity to enter into the settlement agreement to avoid fines or suspension of operations. The settlement agreement identifies the consequences to the motor carrier if it does not take the agreed upon action and return to compliance. The agreement would allow the carrier to avoid significant penalties by committing to major safety improvements, for example, with the understanding that failure to comply with the terms of the settlement agreement would result in the immediate imposition of the maximum penalty that would otherwise have been levied.

Unfit Suspension—A motor carrier is placed out of business.

While the above interventions are presented in their logical sequence of severity, it is important to note that FMCSA and its state partners would not necessarily follow this sequence for each carrier. Instead, factors such as carrier history, level of safety performance, motor carrier characteristics, and investigative discretion could influence the intervention selected to encourage change in unsafe behavior.

Another distinguishing feature of CSA 2010 is the investigative process. Under CSA 2010 one of the primary goals during the intervention process would be to identify the root cause of the safety problem under investigation. FMCSA believes that identifying the root causes would in many cases help motor carriers and drivers apply the most effective corrective actions. At the same time, however, it is important to note that FMCSA is a Federal enforcement agency, and that ultimately it is the responsibility of motor carriers and drivers to know, understand, and comply with all applicable safety regulations.

Finally, the new intervention process would also require that areas of essential motor carrier safety management be subject to sampling of motor carrier records. These data could impact a carrier's safety fitness determination, as described below under Safety Fitness Determination. The specific regulatory areas that would be subject to such sampling are listed below in Table 2.

Safety Fitness Determination—Under 49 U.S.C. 31144, FMCSA is required to ''maintain by regulation a procedure for determining the safety fitness of an owner or operator.'' Under the Agency's current operational model, FMCSA uses the compliance review process to issue motor carrier safety ratings, which can be Satisfactory, Conditional, or Unsatisfactory, defined under 49 CFR part 385. Under CSA 2010, safety fitness determinations would be based on safety performance data, and would not necessarily require an on-site investigation like today's compliance review. FMCSA believes that this approach would enable the Agency to assess the safety performance of a greater segment of the motor carrier industry, and make formal safety fitness determinations that are available to the public and more reflective of a motor carrier's current performance.

During the November 2006 listening session, FMCSA discussed the concept of changing the safety fitness determination methodology from the current three tier system of Satisfactory-Conditional-Unsatisfactory to a two tier system of Continue Operation or Unfit. FMCSA pointed out that: (1) The governing legislation requires only that the Agency determine the safety fitness of an owner or operator, (2) the two-tier approach seemed simpler, and (3) it would move away from use of the term Satisfactory. That term can be misperceived by the public as FMCSA approval of a carrier, when in fact the Agency has simply found no patterns of violations during the most recent CR that rise to the Conditional or Unsatisfactory level. Under the Agency's current operational model, the term Satisfactory can also remain with a motor carrier for several years even

though its safety performance may have deteriorated.

Since November 2006, FMCSA has made significant progress in developing a preliminary CSA 2010 safety fitness determination methodology. Under this methodology, FMCSA has dropped the concept of having a two-tier system in favor of the three-tier system. This change is based in large part on comments received in response to last year's public listening session. There were substantial comments indicating the need to make a distinction among carriers within the Continue Operation category, so that the public would know about those carriers with which the Agency is intervening; and to make it clear that sub-par performance, even in a single behavior area, would be identified with an adverse safety fitness determination. After considering these comments, FMCSA has tentatively decided to use the three-tier approach in this CSA 2010 safety fitness determination methodology. However, for purposes of this methodology, the Agency is considering changing the three-tier terminology from Satisfactory-Conditional-Unsatisfactory to Continue Operation-Marginal-Unfit. The Agency believes that this terminology might eliminate the public's possible misperception associated with the term Satisfactory. The term Marginal has been substituted for Conditional because it may be more meaningful in conveying the message, ''marginal in safety performance.'' Likewise the term Unfit may convey a clearer message than the term Unsatisfactory, especially given the Transportation Equity Act for the 21st Century (TEA 21) requirement concerning Unfit motor carriers (65 FR 50919 dated August 22, 2000).

Under this methodology, there would be four major factors that could impact a motor carrier's safety fitness determination: (1) Roadside inspections results as assessed by the Safety Management System (SMS) through stand alone or non-stand alone BASICs, (2) a verifiable crash rate, (3) where essential safety management violations are 10 percent or more of records checked during the intervention process, and (4) fifteen violations which FMCSA believes are so fundamental to ensuring safety that no motor carrier should be allowed to operate if any of these violations are found and not immediately corrected. Factors (1), (2), and (3) would align within the seven BASICs referenced above in the Safety Measurement System. These same factors would be applied to a set of safety fitness criteria to determine a BASIC failure.

A carrier's SMS measures and verifiable crash rate in Factors (1) and (2), respectively, would be applied to a set of Unfit thresholds to determine a BASIC failure. These thresholds would be based on the carrier's absolute BASIC measures and crash rate, as opposed to the relative percentile rankings from the SMS.

Carriers that have received interventions resulting in violations in the areas of essential motor carrier safety management that equal or exceed a 10% violation rate of records check will also result in a BASIC failure.

Table 1 below illustrates how these BASIC failures would interact to determine a motor carrier's safety fitness:

TABLE 1.—PRELIMINARY CSA 2010 SAFETY FITNESS DETERMINATION METHODOLOGY

Stand Alone BASICs: Unsafe Driving Fatigued Driving	Non-Stand Alone *BASICs:* Driver Fitness Drug/Alcohol Cargo Securement Vehicle Maintenance Verifiable Crash Rate	Fifteen Fundamental Violations	Safety Fitness Determination
Number of BASICs: (1) With SMS measure above Unfit threshold, or (2) Where essential safety management violations are 10 percent or more of records checked	*Number of BASICs:* (1) With SMS measure or verifiable crash rate above Unfit threshold, or (2) Where essential safety management violations are 10 percent or more of records checked.	See Table 3 below	Continue Operation. Marginal. Unfit.
1			Unfit.
0	Greater than 1		Unfit.
0	0	1	Unfit.
0	1	0	Marginal.
0	0	0	Continue Operation.

The above methodology makes a distinction between ''stand alone'' and ''non-stand alone'' BASICs. For the ''stand alone'' BASICs a failure in only one of them would result in a proposed Unfit status, whereas for the ''non-stand alone'' BASICs a failure in more than one of them would be required for the proposed Unfit status. The rationale for this distinction is that, although each of the BASICs applies to both carriers and drivers, the ''stand alone'' BASICs are more directly related to driver behavior. Recent research indicates that driver behavior is a major contributing factor in causing crashes. In particular, an effectiveness study on the Safety Management System has shown that carriers with past poor performance in the Unsafe Driving or Fatigue Driving BASICs were subsequently involved in crashes at a considerably higher rate than the overall crash rate of the motor carrier population.

FMCSA believes that this preliminary safety fitness determination methodology would allow the Agency to assess the safety performance of a larger segment of the motor carrier industry. In contrast to the Agency's current methodology, this approach is not tied to an on-site compliance review and it takes into account virtually all of the safety regulations. FMCSA would issue safety fitness determinations on all motor carriers for which it has sufficient data. These would be updated monthly and made available to the public.

Information Technology—Information technology (IT) is the fourth major component of CSA 2010, and COMPASS is the Agency's major IT modernization initiative. CSA 2010 is coordinating closely with the COMPASS program so that the timelines of both programs are synchronized as much as possible. With respect to CSA 2010, COMPASS will track and update the safety performance data from regulated entities as they are received, link relevant data to the

correct entity, validate the data, and provide the mechanisms for correcting data. COMPASS will also support the intervention process as FMCSA and its state partners gather safety performance data on motor carriers and drivers.

Operational Model Test

FMCSA is planning to field test the new CSA 2010 operational model (Op-Model) beginning in January 2008. The purpose of the test is to determine both the feasibility and effectiveness of the new CSA 2010 interventions and Safety Management System.

During the Op-Model test, FMCSA will not be providing any regulatory relief. Motor carriers will not actually be rated under the CSA 2010 safety fitness determination methodology, because that methodology must yet be implemented through rulemaking. Instead, a motor carrier in the Op-Model test with poor safety performance, and found to be unresponsive to the new CSA 2010 interventions, would undergo a compliance review and be rated in accordance with the Agency's current compliance and enforcement process and be subject to fines, penalties, and other actions to bring about compliance.

The test will take place in four states: Colorado, Georgia, Missouri, and New Jersey, which will provide one test state for each of the four FMCSA Service Centers. FMCSA anticipates that this geographic and demographic diversity will help provide a representative cross-section of the motor carrier population. Approximately ten percent of the total number of active carriers and power units in the U.S. are based in these four states. Carriers that are domiciled in these four states will be assigned to one of three groups:

Current Process Group: This is a small number of carriers that is excluded from the test, as discussed below.

Test Group: This is approximately ½ of the remaining carriers.

Control Group: This is approximately ½ of the remaining carriers.

Carriers in the Current Process Group include the following:

Carriers that have had a compliance review within the past 18 months. This should help avoid the question of whether a carrier's performance improvement was due to a CSA 2010 intervention or the compliance review.

SafeStat category A/B carriers. This exclusion would ensure that FMCSA complies with relevant mandates and policies to perform compliance reviews on category A and B motor carriers. It would also help focus the test on carriers with mediocre performance which are not currently being reached. Roadside and accident data that feed the CSA 2010 operational model are already being used and applied to A and B carriers.

Chameleon carriers. These are carriers that attempt to evade enforcement actions or out-of-service orders by re-registering as new entrants and operating under new DOT numbers. Once identified, these carriers would be removed and subject to current compliance and enforcement actions.

The carriers that are thus excluded will continue to be subject to current processes, including compliance reviews. These exclusions are designed to ensure that the two remaining groups of carriers (test and control) are similar in characteristics for evaluation purposes.

After the exclusions described above are made, FMCSA plans to randomly divide the remaining motor carriers domiciled in the test states into two equal sized groups—a test group and a control group. The control group would be addressed through the Agency's current operational model, which involves the use of SafeStat to identify motor carriers for compliance reviews and any required enforcement actions. Those motor carriers in the test group would receive CSA 2010 interventions based on information provided by the Safety Measurement System. Again, motor carries in the test group with poor safety performance, and found to be unresponsive to the new CSA 2010 interventions, would undergo a compliance review and be rated in accordance with the Agency's current compliance and enforcement process. FMCSA anticipates that the number of such carriers would be relatively low, since SafeStat A/B carriers will be initially excluded from the test.

However, as the test progresses, FMCSA is considering adding SafeStat A/B motor carriers to the test. Including A/B carriers would help demonstrate the effectiveness of the new interventions on the group of carriers that FMCSA traditionally targets. It may be that with some of the less time-consuming CSA 2010 interventions, FMCSA could reach A/B carriers more quickly than they would otherwise be reached using the compliance review process. If the new interventions are effective, the carrier could be moved off of the A/B list, thereby eliminating the need for a compliance review. If, however, the carrier does not respond, it would be removed from the test and undergo the traditional compliance review and any necessary enforcement action.

The Agency plans to begin the test in January 2008. The test would have two phases. Phase I would be a six-month startup phase where only three BASICs would be measured: Unsafe Driving, Fatigued Driving, and Vehicle Maintenance. This would allow time for the test to become fully operational by June 2008, when the remaining BASICs would be added.

The test is scheduled to run for 30 months into mid-2010, at which time FMCSA is targeting full CSA 2010 implementation. The thirty-month timeframe is designed to provide sufficient data for statistical purposes with results evaluated at periodic intervals. It is anticipated that full implementation of CSA 2010 could take place through the addition of more states when the safety fitness determination rulemaking is completed. Of course, the Agency will consider the results of the ongoing Op-Model test in fine tuning the rulemaking through notice and comment. Likewise, comments received during the rulemaking will be considered for any needed course correction during the Op-Model test. Initially, the results will likely be more qualitative than quantitative. However, as the test progresses and more data are gathered, the Agency anticipates being able to make quantitative evaluations of the effectiveness of CSA 2010. As with any planned activity, FMCSA will continue to fine tune its plans for the Op-Model test until it commences in January 2008.

FMCSA plans to use approximately 30 Federal and state investigators to carry out the new CSA 2010 interventions in the test group. Training for the investigators involved in the test group is planned for late January 2008, after which the Op-Model test will immediately begin.

Comments Requested

FMCSA requests comments from all interested parties on the CSA 2010 program elements described in this notice. FMCSA is particularly interested in comments related to the Safety Measurement System, interventions, preliminary safety fitness determination methodology, and operational model test. Commenters are requested to provide supporting rationale and data wherever possible.

TABLE 2.—AREAS OF ESSENTIAL MOTOR CARRIER SAFETY MANAGEMENT

1. Scheduling a run which would necessitate the vehicle being operated at speeds in excess of those prescribed (§ 392.6).
2. Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated (§ 392.2)(Safety related violations only).
3. No operating authority (392.9a(a).
4. False reports of records of duty status (§ 395.8(e)).
5. Requiring or permitting driver to drive more than 11 hours (§ 395.3(a)(1)).
6. Requiring or permitting passenger CMV driver to drive more than 10 hours (§ 395.5(a)(1)).
7. Requiring or permitting driver to drive after 14 hours on duty (§ 395.3(a)(2)).
8. Requiring or permitting passenger CMV driver to drive after 15 hours on duty (§ 395.5(a)(2)).
9. Requiring or permitting driver to drive after 60 hours on duty in 7 days (§ 395.3(b)(1)).
10. Requiring or permitting driver to drive after 70 hours on duty in 8 days (§ 395.3(b)(2)).
11. Requiring or permitting passenger CMV driver to drive after 60 hours on duty in 7 days (§ 395.5(b)(1)).
12. Requiring or permitting passenger CMV driver to drive after 70 hours on duty in 8 days (§ 395.5(b)(2)).
13. Requiring or permitting short-haul property CMV driver to drive after 16 hours on duty (§ 395.1(o)).
14. No records of duty status (§ 395.8(a)).
15. Failing to submit record of duty status within 13 days (§ 395.8(i)).
16. Failing to preserve records of duty status for 6 months (§ 395.8(k)).
17. Failing to preserve supporting documents (§ 395.8(k)).
18. Fraudulent or intentional alteration of a supporting document (§ 395.8(k)).
19. Requiring or permitting driver to drive after 70 hours in 7 days (Alaska)(§ 395.1(h)(1)(iii)).
20. Requiring or permitting driver to drive after 80 hours on duty in 8 days (Alaska)(395.1(h)(1)(iv)).
21. Requiring or permitting driver to drive more than 15 hours (Alaska)(§ 395.1(h)(1)(i)).
22. Requiring or permitting driver to drive after being on duty 20 hours (Alaska)(§ 395.1(h)(1)(ii)).
23. Requiring or permitting passenger CMV driver to drive more than 15 hours (Alaska). (§ 395.1(h)(2)(i)).
24. Requiring or permitting passenger CMV driver to drive after 20 hours on duty (Alaska)(§ 395.1(h)(2)(ii)).
25. Requiring or permitting passenger CMV driver to drive after 80 hours on duty in 8 days (Alaska)(§ 395.1(h)(2)(iv)).
26. Requiring or permitting passenger CMV driver to drive after 70 hours on duty in 7 days (Alaska)(395.1(h)(2)(iii)).
27. Failing to investigate driver's background (§ 391.23(a)).
28. Failing to maintain driver qualification file on each driver employed (§ 391.51(a))(Use current guidance of no element of DQ file requirements found).
29. Operating a CMV without a valid CDL (§ 383.23(a))(Safety related loss only).
30. Failing to train hazardous material employees as required (§ 172.704(a) & § 177.800(c)).
31. Using a driver not medically re-examined each 24 months (§ 391.45(b)(1)).
32. Using a driver not medically examined and certified (§ 391.45(a)).
33. Using a driver before receiving a negative pre-employment result (§ 382.301(a)).
34. Failing to perform random alcohol tests at the applicable rate (§ 382.305(b)(1)).
35. Failing to perform random controlled substance tests at the applicable rate (§ 382.305(b)(2)).
36. Using a driver without a return to duty test (§ 382.309).
37. Failing to keep minimum records of inspection and maintenance (§ 396.3(b)).
38. Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured (§ 392.9(a)(1)).
39. Transporting a HM without preparing a shipping paper (§ 172.200(a) & § 177.817(a))(no shipping paper at all).
40. Transporting HM in a package with an identifiable release of HM (§ 173.24).
41. Loading a cargo tank with an HM which exceeds the maximum weight of lading marked on the specification plate (§ 173.24b(d)(2)).
42. Loading HM not in accordance with the separation and segregation table (§ 173.30/177.848(d)).
43. Transporting HM in an unauthorized cargo tank (§ 173.33(a)).
44. Transporting or loading two or more materials in a cargo tank motor vehicle which resulted in an unsafe condition (§ 173.33(a)(2)).
45. Transporting a hazardous material in a cargo tank motor vehicle which has a dangerous reaction when in contact with the tank (§ 173.33(b)(1)).
46. Transporting an unacceptable HM shipment (§ 177.801).
47. Failing to attend a cargo tank during loading/unloading (§ 177.834(i)).
48. Offering a cargo tank which has not successfully completed a test or inspection which has become due (§ 180.407(a)).
49. Failing to test and inspect a cargo tank which has been in an accident and has been damaged (§ 180.407(b)(2)).
50. Failing to conduct a pressure test on a cargo tank which has been out of HM service for one year or more (§ 180.407(b)(3)).
51. Failing to test and inspect a cargo tank which has been modified (§ 180.407(b)(4)).
52. Failing to conduct a test or inspection on a cargo tank when required by DOT (§ 180.407(b)(5)).
53. Failing to periodically test and inspect a cargo tank (§ 180.407(c)).

TABLE 3.—FUNDAMENTAL VIOLATIONS

1. Failing to implement an alcohol and/or controlled substance testing program (§ 382.115(a) or (b)).
2. Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382 (§ 382.211).
3. Using a driver known to have tested positive for a controlled substance (§ 382.215).
4. Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver's license which is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle as defined in Part 383. (§ 383.37(a)).
5. Knowingly allowing, requiring, permitting, or authorizing a driver who is disqualified to drive a commercial motor vehicle (§ 383.51(a)).
6. Operating a motor vehicle transporting property without having in effect the required minimum levels of financial responsibility coverage (§ 387.7(a)).
7. Using a disqualified driver (§ 391.15(a)).
8. Using a physically unqualified driver (§ 391.11(b)(4)).
9. Failing to require a driver to make a record of duty status (§ 395.8(a)) (Complete lack of any records of duty status).
10. Requiring or permitting the operation of a motor vehicle declared "out-of-service" before repairs are made (§ 396.9(c)(2)).
11. Using a commercial motor vehicle not periodically inspected (§ 396.17(a)). (Complete lack of any periodic inspections).
12. Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility (§ 387.31(a)).

TABLE 3.—FUNDAMENTAL VIOLATIONS—Continued

13. Failing to implement a random controlled substances and/or an alcohol testing program (§ 382.305).
14. Failing to correct out-of-service defects listed by a driver in a driver vehicle inspection report before the vehicle is operated again (§ 396.11(c)).
15. Transporting a forbidden material (§ 177.801).

Issued on: October 30, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–21671 Filed 11–1–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for public transportation projects in the following metropolitan areas: Orlando, Florida; Miami, Florida; Salt Lake City, Utah; San Francisco, California; and Binghamton, 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 Title 23, United States Code (U.S.C.), section 139(l). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before April 30, 2008.

FOR FURTHER INFORMATION CONTACT: Joseph Ossi, Environmental Protection Specialist, Office of Planning and Environment, 202–366–1613, or Christopher Van Wyk, Office of Chief Counsel, 202–366–1733. FTA is located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., e.t., 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 these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA), and in other documents in the FTA administrative record for the project. The final agency environmental decision documents—Records of Decision (RODs) or Findings of No Significant Impact (FONSIs)—for the listed projects are available online at *http://www.fta.dot.gov/planning/environment/planning_environment_documents.html* or may be obtained by contacting the FTA Regional Office for the metropolitan area where the project is located. Contact information for the FTA Regional Offices may be found at *http://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, the National Environmental Policy Act (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].

The projects and actions that are the subject of this notice are:

1. *Project name and location:* Central Florida Commuter Rail; Orlando, Florida. *Project sponsor:* Florida Department of Transportation. *Project description:* The Central Florida Commuter Rail project extends 61 miles along the A-line rail corridor of CSX Transportation from the Deland Amtrak station in Volusia County, through downtown Orlando, to Poinciana Industrial Park in Osceola County. Bi-directional commuter rail service would be provided at a total of 16 stations using diesel multiple units (DMUs) in two-or three-car consists operating on 15 minute headways in the peak hours and 60 minute headways during the midday, off-peak hours. Other infrastructure improvements of the project include: A new signalization system, 42 miles of new second track, 16 platform stations of which 11 stations have parking facilities with a total of 4300 spaces, a DMU vehicle storage and maintenance facility, and two end-of-line layover facilities. The project would be built in phases. *Final agency actions:* FONSI signed on April 27, 2007; Section 106 Finding of No Adverse Effect; project-level Air Quality Conformity determination; finding of no significant encroachment on floodplains in accordance with Executive Order 11988; finding of no practicable alternative to new construction in wetlands in accordance with Executive Order 11990; and consultation with the U.S. Department of the Interior (DOI) under Section 7 of the Endangered Species Act, resulting in DOI's issuance of a Biological Opinion. *Supporting documentation:* Central Florida Commuter Rail Transit North/South Corridor Project: Environmental Assessment issued in December 2006.

2. *Project name and location:* Miami North Corridor Metrorail Extension; Miami, Florida. *Project sponsor:* Miami-Dade County Transit (MDT). *Project description:* The project consists of the design and construction of a 9.5-mile heavy rail transit extension of the existing Miami Metrorail system from NW 76th Street to NW 215th Street on or adjacent to NW 27th Avenue. The project is a dual-track, fixed guideway that would be exclusively elevated in the right of way of NW 27th Avenue or in an exclusive MDT-owned right of way adjacent to NW 27th Avenue. The project includes seven new stations of which six stations are configured as center-platform and one as side-platform. *Final agency actions:* ROD signed on April 26, 2007; Section 106 Finding of No Adverse Effect; project-level Air Quality Conformity determination; finding of no disproportionately high and adverse human health or environmental effects on minority and low-income populations in accordance with Executive Order 12898; and finding of no significant encroachment on floodplains in accordance with Executive Order 11988. *Supporting documentation:* Final Environmental Impact Statement: Miami North Corridor issued on March 9, 2007.

3. *Project name and location:* Mid-Jordan Transit Corridor Project; Salt Lake City, Utah. *Project sponsor:* Utah Transit Authority (UTA). *Project description:* The project consists of a 10.6-mile light rail transit (LRT) extension branching from the existing TRAX line between Sandy and Salt Lake City at 6400 South in Murray in Salt Lake County and proceeding to the new Daybreak Development in South Jordan via the cities of Murray, Midvale, West