

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Notice of Final Federal Agency Actions on Avenida Rio Salado/Broadway Road**

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

**ACTION:** Notice of limitation on claims for judicial review of actions by FHWA and other Federal Agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the extension and reconstruction of Broadway Road between 67th Avenue and 7th Street within the city of Phoenix, Maricopa County, Arizona. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before October 30, 2012. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Deitering, Area Engineer, Federal Highway Administration, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012-3500; telephone: (602) 379-3646, fax: (602) 382-8998, email: [Thomas.Deitering@dot.gov](mailto:Thomas.Deitering@dot.gov).

The FHWA Arizona Division Office's normal business hours are 8 a.m. to 5 p.m. (Mountain Standard Time).

You may also contact: Mr. Ken Davis, Senior Engineering Manager, Federal Highway Administration, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012-3500; telephone: (602) 379-3646, fax: (602) 382-8998, email: [Ken.Davis@dot.gov](mailto:Ken.Davis@dot.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following project in the State of Arizona: Avenida Rio Salado/Broadway Road. The improvements include extending Broadway Road by constructing a new 6-lane roadway between 67th and 43rd avenues, widening the existing Broadway Road to 6-lanes between 43rd and 17th avenues, and improving the Broadway Road intersections at 15th, 7th, and Central avenues and 7th Street. The project will require approximately

102.63 acres of additional right of way and would not result in residential or commercial displacements. Some properties will require reconfiguration to remain functional under the changed roadway conditions.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Avenida Rio Salado/Broadway Road Final Environmental Assessment and Section 4(f) Evaluation (Final EA) for the project, approved on January 5, 2012, in the FHWA Finding of No Significant Impact (FONSI) issued on January 5, 2012, and in other documents in the FHWA administrative record. The FONSI, Final EA, and other documents in the FHWA administrative record file are available by contacting the FHWA or the Arizona Department of Transportation at the addresses provided above. The FONSI and Final EA including the Public Hearing Summary are available online at: [http://avenidariosalado.com/environmental\\_assessment.php](http://avenidariosalado.com/environmental_assessment.php). This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act [42 U.S.C. 7401-7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001-3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201-4209].

7. *Wetlands and Water Resources:* Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601-4604]; Safe

Drinking Water Act (SDWA) [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Wild and Scenic Rivers Act [16 U.S.C. 1271-1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. *Water:* Clean Water Act 33 U.S.C. 1251-1387.

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

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

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: April 25, 2012.

**Karla S. Petty,**

*Division Administrator, Phoenix, Arizona.*

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**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration**

[FHWA Docket No. FHWA-2012-0005]

**Surface Transportation Project Delivery Pilot Program; Caltrans Audit Report**

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

**ACTION:** Final report.

**SUMMARY:** Section 6005 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) established the Surface Transportation Project Delivery Pilot Program, codified at 23 U.S.C. 327. To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) mandates semiannual audits during each of the first 2 years of State participation. This final report presents the findings from the sixth FHWA audit of the California Department of Transportation (Caltrans) under the pilot program.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ruth Rentch, Office of Project Development and Environmental Review, (202) 366–2034, [Ruth.Rentch@dot.gov](mailto:Ruth.Rentch@dot.gov), or Mr. Michael Harkins, Office of the Chief Counsel, (202) 366–4928, [Michael.Harkins@dot.gov](mailto:Michael.Harkins@dot.gov), Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This document, the notice and request for comment, and all comments received may be viewed online through the Federal eRulemaking portal at: <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 366 days this year. Please follow the instructions. An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at <http://www.archives.gov> and the Government Printing Office's Web site at <http://www.access.gpo.gov>.

**Background**

Section 6005 of SAFETEA-LU (codified at 23 U.S.C. 327) established a pilot program to allow up to five States to assume the Secretary of Transportation's responsibilities for environmental review, consultation, or other actions under any Federal environmental law pertaining to the review or approval of highway projects. In order to be selected for the pilot program, a State must submit an application to the Secretary.

On June 29, 2007, Caltrans and FHWA entered into a Memorandum of Understanding (MOU) that established the assignments to and assumptions of responsibility to Caltrans. Under the MOU, Caltrans assumed the majority of FHWA's responsibilities under the National Environmental Policy Act, as well as the FHWA's responsibilities under other Federal environmental laws for most highway projects in California.

To ensure compliance by each State participating in the Pilot Program, 23 U.S.C. 327(g) requires the Secretary to conduct semiannual audits during each of the first 2 years of State participation; and annual audits during each subsequent year of State participation. The results of each audit must be presented in the form of an audit report and be made available for public comment. The FHWA solicited comments on the sixth audit report in

a **Federal Register** Notice published on February 22, 2012, at 77 FR 10599. The FHWA received one comment from Caltrans. This notice provides the final draft of the sixth FHWA audit report for Caltrans under the pilot program.

**Authority:** Section 6005 of Pub. L. 109–59; 23 U.S.C. 315 and 327; 49 CFR 1.48.

Issued on: April 26, 2012.

**Victor M. Mendez,**  
*Administrator.*

[FR Doc. 2012–10616 Filed 5–2–12; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**[Docket Number FRA–2010–0060]**

**Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 12, 2012, the Norfolk Southern Railway (NS) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations. FRA assigned the petition to Docket Number FRA–2010–0060.

Pursuant to the requirements of 49 CFR Section 236.1035 (Field testing requirements), NS has submitted the Interoperable Electronic Train Management System (I–ETMS) Positive Train Control (PTC) test waiver request, Version 1.1, dated March 12, 2012, along with associated required documents for request of relief from select parts of Subparts A–G. In conjunction with those requests, per 49 CFR Section 236.1035, the NS test waiver includes requests for relief from regulations other than those contained in Subparts A–G.

I–ETMS is a vital overlay system as defined in 49 CFR Part 236, Subpart I, Section 236.1015(e)(2) and fully described in the NS I–ETMS PTC Development Plan (FRA–2010–0060–0002) found in Appendix A, and for which FRA Type Approval FRA–TA–2011–02 was issued on August 26, 2011.

The I–ETMS system is designed to support different railroads and their individual methods of operation and is intended to be implementable across a broad spectrum of railroads without significant modification. This design approach supports interoperability across railroads as I–ETMS-equipped locomotives apply consistent warning and enforcement functionality regardless of trackage ownership.

NS seeks a waiver of compliance from certain sections of 49 CFR, including Parts 216, Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment; 217, Railroad Operating Rules; 218, Railroad Operating Practices; 229, Railroad Locomotive Safety Standards; 233, Signal Systems Reporting Requirements; 235, Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements of Part 236; and 240, Qualification and Certification of Locomotive Engineers. NS also seeks a waiver of compliance from 49 CFR Section 211.51 (Tests) to allow them to test I–ETMS, on nonrevenue trains, on the Charleston District from Charleston, SC, milepost (MP) SC 7.0, to Andrews Yard, Columbia, SC, MP SC 128.9; and on the Columbia District from Andrews Yard, Columbia, SC, MP R 108.5, to Charolette Junction, MP R0.0.

The following are the waiver requests and their justifications:

**Section 216.13, Special Notice for Repairs—Locomotive**

Waiver is requested for I–ETMS-equipped locomotives to the extent that non-operation of I–ETMS equipment installed on board, whether through malfunction or deactivation, shall not be construed as an unsafe condition requiring special notice for repairs. Waiver is also sought for non-I–ETMS-equipped locomotives operating in I–ETMS territory to the extent that the absence of I–ETMS equipment on board shall not be construed as an unsafe condition requiring special notice for repairs.

*Justification:* With or without I–ETMS equipment operating on board the controlling locomotive, a train remains subject to existing operating rules. I–ETMS tests require flexibility in installing, removing, turning on, and turning off the equipment.

**Section 217.9, Program of Operational Tests and Inspections; Recordkeeping**

Waiver is requested, exempting operation of I–ETMS equipment and procedures from the requirements for operational tests and inspections, and associated recordkeeping.

*Justification:* During the I–ETMS test phase, procedures for using I–ETMS equipment and functions will be refined and modified. Until such procedures are defined in the PTC Safety Plan (PTCSP), or associated documentation, they cannot be addressed in NS operating rules. I–ETMS is expected to have minimal impact on existing operating