

serve as a planning foundation for future projects by CDOT or others.

In late 2007, it became apparent that many transportation needs in the State would be competing for very limited funding. This EIS project was one of four major Denver-area EISs initiated in 2003 with the expectation that funding levels would continue and possibly increase. While the need for a project is an important factor in determining which projects receive funding, those with the greatest public and local-entity support are more likely to receive funding in a fiscally-constrained, long-range plan. As a result, the current long-range plan does not include funding for the improvements studied for the Northwest Corridor. As such, it is not the best use of limited public funds to continue the NEPA process for this project. A report, Northwest Corridor Transportation and Environmental Planning Study, will document the results of the analysis to date and be available to the public in July/August 2008.

If any entity or authority, public or private, wants to proceed with improvements or connections to state highways in this area in the future, applicable state and federal requirements must be met and established study processes followed to determine feasibility and environmental impacts. In consultation with CDOT and FHWA, the Northwest Corridor Transportation and Environmental Planning Study document could support these efforts to develop future NEPA or technical studies. As part of planning and environmental linkages (PEL), elements that could be used to assist decision-making on future projects include purpose and need, alternatives development and evaluation, environmental resource background data, and public and agency coordination.

**Authority:** 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.

Issued on: June 25, 2008.

**Karla S. Petty,**  
Colorado Division Administrator.  
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**BILLING CODE 4910-22-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in San Bernardino County, CA

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

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

**SUMMARY:** This notice announces actions taken by the California Department of Transportation (Caltrans) pursuant to its assigned responsibilities under 23 U.S.C. 327 that are final within the meaning of 23 U.S.C. 139(l)(1). These actions relate to a proposed highway project, US-395 from post miles 19.05-35.6 in San Bernardino County, California. Those actions grant licenses, permits, and approval of the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, 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 December 29, 2008. 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:**

Marie J. Petry, California Department of Transportation District 8, 464 W. 4th Street, San Bernardino, CA 94201-1400, telephone (909) 383-6379, [Marie\\_Petry@dot.ca.gov](mailto:Marie_Petry@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the California Department of Transportation (Caltrans), pursuant to its assigned responsibilities under U.S.C. 327, and certain Federal Agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by approving the United States 395 (US-395) widening project in the State of California. When completed, the US-395 widening project will accommodate the installation of rumble strips on the 7.9 ft (2.40 m) outside paved shoulders and a 3.9 ft (1.2 m) median buffer. In addition, roadway resurfacing will be conducted in both directions and the following intersections will be paved to accommodate the new width of the US-395: Colusa Road, Desert Flower Road, Purple Sage Street, Shadow Mountain Avenue, Sun Hill Ranch, and Princess Pat Mine. The project would require right of way acquisition and utility relocation. The right of way acquisition will include the required land for the project as well as land required to

accommodate future passing lanes. Since the project consists of widening the existing facility, there will be no additional encroachment either upon any floodplain or drainage course that might be determined to be associated with a floodplain. In addition, the project would not require any new structures, retaining walls, and/or soundwalls; therefore, it would not create any visual impacts in the area. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Initial Study with Mitigated Negative Declaration/Environmental Assessment for the project, approved on May 1, 2008, in the FHWA Finding of No Significant Impact (FONSI) issued on May 1, 2008, and in other documents in the FHWA project records. The Final Initial Study with Mitigated Negative Declaration/Environmental Assessment, FONSI, and other project records are available by contacting FHWA or the California Department of Transportation, District 8 at the address provided above. The FHWA FONSI can be viewed and downloaded from the project Web site at <http://district8.dot.ca.gov/projects/index.htm>.

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, as amended [42 U.S.C. 7401-7671(q)].
3. Wildlife: Endangered Species Act [16 U.S.C. 1531-1544]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)].
4. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001-3013].
5. 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]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].
6. Wetlands and Water Resources: Clean Water Act [33 U.S.C. 1251-1377 (Section 404, Section 401)].
7. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability

Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

8. 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: June 10, 2008.

**Nancy E. Bobb,**

*Director, State Programs, Federal Highway Administration, Sacramento, California.*

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**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### Union Pacific Railroad Company (Docket Number FRA–2008–0073)

The Union Pacific Railroad Company (UP) requests relief from certain provisions of Title 49 CFR Part 232 *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*, and CFR Part 229 *Railroad Locomotive Safety Standards*, in order to begin implementation of Electronically Controlled Pneumatic (ECP) brakes. As well, the petition implicitly requests exemption from

certain provisions of Chapter 203, Title 49 United States Code.

UP's request is in line with the requests of BNSF Railway Company and Norfolk Southern Corporation in Docket Number FRA–2007–26435. The petitioner believes that this relief will permit them to implement this pilot program on an expedited basis, allow FRA and the industry to identify definable savings with ECP brake equipped train operations, and evaluate changes to the CFR to accommodate these operations on a permanent basis. UP states that implementation of ECP technology will require a substantial capital commitment of approximately one million dollars per train. Accordingly, UP requests that this waiver be in effect for a minimum of five (5) years.

UP specifically requests relief from the following sections of 49 CFR Part 232: 232.207 *Class IA Brake Tests*; 232.15(a)(7) *Movement of defective equipment*; 232.103(d) and 232.103(g) *General requirement for train braking system*; 232.109 *Dynamic brake requirements*; 232.111(b)(3) and (4) *Train handling information*; 232.205 (c)(3), (c)(4) and (c)(5) *Class I brake tests*; 232.209(a)(1) *Class II brake inspection*; 232.211 *Class III brake inspection*; 232.217 (c)(3) *Train brake tests conducted using yard air*; 232.305 *Single car airbrake tests*; and 232.505(e) *Pre-revenue service acceptance testing plan*. UP also requests relief from the requirements of 49 CFR Part 232, Subpart E related to end of train devices.

UP states that the ECP brake system they will use will meet all current Association of American Railroad Standards for ECP brakes and that they will also provide all of the necessary training to both operating and mechanical personnel. UP also represents that this requested relief should provide a framework for an expedited rulemaking by FRA which will encourage further investment in ECP brake technology throughout the railroad industry.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. Although the petition appears to present issues that would require findings under 49 U.S.C. 20306 (exemption for technological improvements), FRA does not anticipate scheduling a public hearing in connection with this request since two prior hearings in docket numbers FRA–2007–26435 and FRA–2006–26175 addressed the issue of whether chapter 203 of the United States Code precluded the development or implementation of

more efficient railroad transportation equipment or other transportation innovations as it relates to ECP brake technology. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2008–0073) and may be submitted by any of the following methods:

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

Communications received within 20 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on June 25, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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