

**ACTION:** Notice of program change.

**SUMMARY:** The FMCSA announces that it is increasing the minimum annual percentage rate for random controlled substances testing for drivers of commercial motor vehicles (CMVs) requiring a commercial driver's license (CDL) from the current rate of 25 percent of the average number of driver positions to 50 percent of the average number of driver positions, effective in calendar year 2020. The FMCSA Administrator must increase the minimum annual random testing percentage rate when the data received under the reporting requirements for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent. Based on the results of the 2018 FMCSA Drug and Alcohol Testing Survey, the positive rate for controlled substances random testing increased to 1.0 percent. Therefore, the Agency will increase the controlled substances minimum annual percentage rate for random controlled substances testing to 50 percent of the average number of driver positions.

**DATES:** Beginning January 1, 2020, the minimum annual percentage rate for random controlled substances testing, for drivers of commercial motor vehicles (CMVs) requiring a commercial driver's license (CDL), will be 50 percent.

**FOR FURTHER INFORMATION CONTACT:** Mr. Juan Moya, Drug and Alcohol Program Manager, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, 202-366-4844 or [fmcsadrugandalcohol@dot.gov](mailto:fmcsadrugandalcohol@dot.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The final rule titled, "Controlled Substances and Alcohol Use and Testing," published August 17, 2001, (66 FR 43097), established the process by which the Agency determines whether the minimum annual percentage rate for random controlled substances testing should be increased or decreased. The final rule included a provision indicating that the decision on whether to increase or decrease the percentage rate would be based upon the motor carrier industry's overall positive random controlled substance test rate, as reported by motor carrier employers to FMCSA, pursuant to 49 CFR 382.403. Under this performance-based system, when the minimum annual percentage rate for random controlled substances testing is 25 percent, and the data received under the reporting requirements for any calendar year indicate that the reported positive

rate is equal to or greater than 1 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances to 50 percent for all driver positions (49 CFR 382.305(h)). The new annual random testing percentage rate would then apply starting January 1 of the following calendar year.

In accordance with 49 CFR 382.403, each calendar year FMCSA requires motor carriers selected for the survey to submit their DOT drug and alcohol testing program results. Selected motor carriers are responsible for ensuring the completeness, accuracy, and timeliness of the data submitted. The survey requires motor carriers to provide information to the Agency on the number of random tests conducted and the corresponding positive rates.

For the 2018 survey, forms were sent to 4,480 randomly selected motor carriers. Of these forms, 1,908 were completed and returned to FMCSA, resulting in usable data from 1,552 carriers (comprising of 300,635 CDL drivers) for random controlled substance testing. Respondents providing non-usable data represent entities that are out of business, exempt, have no testing program in place, or belong to consortia that did not test any drivers for the carrier during 2018.

The estimated positive random controlled substance test rate in 2018 is 1 percent. The 95-percent confidence interval for this estimate ranges from 0.9 to 1.1 percent. In other words, if the survey were to be replicated, it would be expected that the confidence interval derived from each replication would contain the true usage rate in 95 out of 100 surveys. For 2016 and 2017, the estimated positive usage rate for drugs was estimated to be 0.7 percent and 0.8 percent, respectively. A more detailed discussion of the 2018 drug and alcohol testing survey results can be found in the Analysis Brief included in the docket for this Notice.

**Part 382 Compliance**

Based on the 2018 survey results, the estimated percentage of subject motor carriers with random controlled substance and alcohol testing programs in place is 94 percent, and the estimated percentage of all CDL drivers participating in such programs is 99 percent. FMCSA estimates there are 3.2 million CDL holders operating in interstate commerce and 1 million CDL holders operating in intrastate commerce. With this population, at least 1.05 million random controlled substances tests would be conducted with an annual random testing rate of 25 percent of all driving positions. At a 50

percent annual random testing rate, approximately 2.1 million random controlled substances tests will need to be conducted in calendar year 2020.

The new minimum annual percentage rate for random drug testing will be effective January 1, 2020. This change reflects the increased positive test rate and will result in an estimated \$50 to 70 million increase in costs to the industry by requiring that more drivers be tested.

**Minimum Annual Percentage Rates for Random Controlled Substances Testing for 2020**

Beginning January 1, 2020, the minimum annual percentage rate for random controlled substances testing is 50 percent of the average number of driver positions. The minimum annual percentage rate for random alcohol testing will remain at 10 percent.

Issued on: December 20, 2019.

**Elaine L. Chao,**  
*Secretary.*

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**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION****Federal Transit Administration****Limitation on Claims Against Proposed Public Transportation Projects**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Denver, Colorado, Portland, Oregon, and Las Vegas, Nevada. 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 23 U.S.C. 139(l). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before May 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353-2577 or Juliet Bochicchio, Environmental Protection Specialist, Office of Environmental Programs, (202) 366-9348. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m.

to 5:00 p.m., 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 the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project file for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at <https://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, NEPA [42 U.S.C. 4321–4375], Section 4(f) requirements [23 U.S.C. 138, 49 U.S.C. 303], Section 106 of the National Historic Preservation Act [54 U.S.C. 306108], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice follow:

1. *Project name and location:* The 16th Street Mall Improvement Project in Denver, Colorado. *Project Sponsor:* The Regional Transportation District and the City and County of Denver. *Project description:* The 16th Street Mall Improvement Project will reconstruct the 16th Street Mall between Market Street and Broadway. The project will reconstruct 12.5 blocks of the historic 16th Street Mall to address infrastructure, mobility, safety and public use needs and install a new granite paver system with improved surface friction and proper drainage. The spatial reconfiguration will create wider pedestrian areas, transit lanes will be consolidated in the center of the Mall, and the Free MallRide shuttle bus service will continue. *Final agency action:* Section 4(f) determination of the historic 16th Street Mall, concurrence dated October 4, 2019; Section 106 finding of adverse effect to the historic 16th Street Mall, concurrence dated June 5, 2018, and executed Section 106 Programmatic Agreement, dated September 18, 2019; and the 16th Street Mall Alternatives Analysis and Environmental Clearance Finding of No

Significant Impact, dated November 25, 2019. *Supporting Documentation:* the 16th Street Mall Alternatives Analysis and Environmental Assessment, April, 2019; and the 16th Street Mall Alternatives Analysis and Environmental Assessment Errata Sheet, November, 2019.

2. *Project name and location:* MAX Red Line Extension and Reliability Improvements Project, Portland, Oregon. *Project Sponsor:* The Tri-County Metropolitan Transportation District of Oregon. *Project description:* The MAX Red Line Extension and Reliability Improvements Project includes capital improvements of the MAX light rail system at four station locations to improve MAX systemwide reliability. The project will extend MAX Red Line service to ten existing MAX Blue Line stations from west of the Beaverton Transit Center to a terminus at the existing Fair Complex/Hillsboro Airport Station. *Final agency actions:* Section 4(f) exception and Section 4(f) *de minimis* impact determination; Section 106 finding of no adverse effect, concurrence dated August 16 and 19, 2019; and determination of the applicability of a Categorical Exclusion pursuant to 23 CFR 771.118(d), dated October 1, 2019. *Supporting documentation:* Documented Categorical Exclusion checklist and supporting materials, dated July 9, 2019.

3. *Project name and location:* Maryland Parkway High Capacity Transit Project, City of Las Vegas, Nevada. *Project Sponsor:* The Regional Transportation Commission of Southern Nevada. *Project description:* The project consists of an 8.7-mile-long route that will replace the existing local Route 109 bus service with an enhanced bus rapid transit system from Las Vegas Medical District to the Bonneville Transit Center and through downtown Las Vegas, along Maryland Parkway to Russell Road. The project encompasses the construction of 24 new bus stations, with accompanying 44 new platforms, spaced approximately 0.35-mile apart, and all associated bus rapid transit roadway and hard surface improvements. *Final agency action:* Section 4(f) *de minimis* impact determination; project-level air quality conformity; Section 106 finding of no adverse effect to historic properties, concurrence dated July 18, 2019; and Maryland Parkway High Capacity Transit Project Finding of No Significant Impact, dated December 16, 2019. *Supporting Documentation:* Maryland Parkway High Capacity Transit Environmental Assessment, November, 2019.

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

**Felicia L. James,**

*Associate Administrator for Planning and Environment.*

[FR Doc. 2019–27902 Filed 12–26–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No. DOT–OST–2019–0184]

### National Freight Strategic Plan: Request for Information

**ACTION:** Request for information (RFI).

**SUMMARY:** The safe and efficient movement of freight is vital to the Nation's economic growth and to the creation of well-paying jobs for millions of Americans. The Fixing America's Surface Transportation (FAST) Act required DOT to develop a National Freight Strategic Plan (NFSP) that includes eleven statutorily required components to address multimodal freight transportation. The Department of Transportation (DOT) seeks information from the public, including stakeholders (e.g., State and local agencies, private owners and operators, industry trade groups, shippers and beneficial cargo owners, etc.) to aid development of the NFSP.

**DATES:** Comments must be received on or before February 10, 2020. DOT will consider comments filed after this date to the extent practicable.

**ADDRESSES:** You may submit comments identified by DOT Docket Number OST–2019–0184 by any of the following methods:

- *Electronic Submission:* Go to <http://www.regulations.gov>. Search by using the docket number (provided above). Follow the instructions for submitting comments on the electronic docket site.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 of the Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

*Instructions:* All submissions must include the agency name and docket numbers.

*Note:* All comments received, including any personal information, will be posted without change to the docket and is accessible via <http://www.regulations.gov>. Input submitted online via [www.regulations.gov](http://www.regulations.gov) is not