

granting the exemption (74 FR 17549). On April 18, 2011, FMCSA published a notice of final disposition renewing this exemption until April 16, 2013. The renewal outlined in this notice extends the exemption through April 16, 2015, and requests public comment.

FMCSA is not aware of any evidence showing that the installation of video event recorders on CMVs, in accordance with the conditions of the original exemption, has resulted in any degradation in safety. FMCSA continues to believe that the potential safety gains from the use of video event recorders to improve driver behavior will improve the overall level of safety to the motoring public.

The exemption is renewed subject to the requirements that video event recorders installed in commercial motor vehicles be mounted not more than 5mm (2 inches) below the upper edge of the area swept by the windshield wipers, and located outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

The Agency believes that extending the exemption for another two years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) Based on the technical information available, there is no indication that the video event recorders obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) trucks and buses generally have an elevated seating position which greatly improves the forward visual field of the driver, and any impairment of available sight lines is minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline is reasonable and enforceable at roadside. In addition, the Agency believes that the use of video event recorders by fleets to deter unsafe driving behavior is likely to improve the overall level of safety to the motoring public.

Without the exemption, FMCSA and the motor carrier industry would be unable to continue to test this innovative safety management control system.

### Request for Comments

FMCSA requests comments from parties with data concerning the safety record of CMVs equipped with video event recorders by April 22, 2013. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the DriveCam exemption.

Issued on: March 18, 2013.

Anne S. Ferro,  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-26367]

### Motor Carrier Safety Advisory Committee (MCSAC): Public Meeting

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Meeting of Motor Carrier Safety Advisory Committee (MCSAC).

**SUMMARY:** FMCSA announces that its Motor Carrier Safety Advisory Committee will meet from Monday–Wednesday, April 8–10, 2013, in Alexandria, VA. On Monday and Tuesday, April 8 and 9, 2013, the MCSAC will complete its deliberations on Task 13–1 concerning entry-level driver training (ELDT). The MCSAC will receive a briefing from its Compliance, Safety and Accountability (CSA) subcommittee concerning the subcommittee's preliminary work, to date. The MCSAC will also receive briefings from the Agency on its Motor Carrier Safety Assistance Program and the requirements for States to adopt and enforce compatible regulations and FMCSA exemptions allowing motor carriers to use windshield-mounted driver video monitoring systems. On Wednesday, April 10, 2013, the MCSAC's CSA Subcommittee will convene. Meetings are open to the public for their entirety and there will be a public comment period at the end of each day.

**Times and Dates:** The meeting will be held Monday–Tuesday, April 8–9, 2013, from 9 a.m. to 5 p.m., Eastern Daylight Time (E.D.T.), and on Wednesday, April 10, 2013, from 9 a.m. to 4 p.m., E.D.T. The meetings will be held at the Hilton

Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 in the Washington and Jefferson Rooms on the 2nd floor. The Hilton Alexandria Old Town is located across the street from the King Street Metro station.

Copies of all MCSAC Task Statements and an agenda for the entire meeting will be made available in advance of the meeting at <http://mcsac.fmcsa.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385-2395, [mcsac@dot.gov](mailto:mcsac@dot.gov).

### Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Elizabeth Turner at (617) 494-2068, [elizabeth.turner@dot.gov](mailto:elizabeth.turner@dot.gov), by Tuesday, April 2, 2013.

### SUPPLEMENTARY INFORMATION:

#### I. Background

##### MCSAC

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Pub. L. 109-59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The MCSAC provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations, and operates in accordance with the Federal Advisory Committee Act (FACA, 5 U.S.C. App 2).

#### II. Meeting Participation

Oral comments from the public will be heard during the last half-hour of the meetings each day. Should all public comments be exhausted prior to the end of the specified period, the comment period will close. Members of the public may submit written comments on the topics to be considered during the meeting by Tuesday, April 2, 2013, to Federal Docket Management System (FDMS) Docket Number FMCSA-2006-26367 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200

New Jersey Avenue SE., West Building, Room W12-140, Washington, DC 20590.

• **Hand Delivery:** U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12-140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays.

Issued on: March 19, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 30186]

#### **Tongue River Railroad Company, Inc.—Rail Construction and Operation—In Custer, Powder River and Rosebud Counties, Mont.**

**AGENCY:** *Lead:* Surface Transportation Board; *Cooperating:* U.S. Army Corps of Engineers, U.S. Bureau of Land Management, U.S. Department of Agriculture, Montana Department of Natural Resources and Conservation (acting as lead agency for other Montana State agencies).

**ACTION:** Notice of Availability of the Final Scope of Study for the Environmental Impact Statement.

**SUMMARY:** On October 16, 2012, Tongue River Railroad Company, Inc. (TRRC) filed a revised application with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10901 in Docket No. FD 30186. TRRC intended to construct and operate<sup>1</sup> an approximately 83-mile rail line between Miles City, Montana, and two ending points, one near the site of the previously planned Montco Mine near Ashland, Montana, and another at the proposed Otter Creek Mine in the Otter Creek area east of Ashland, Montana. On November 1, 2012, the Board issued a decision requesting additional information from TRRC. On December 17, 2012, TRRC filed a supplemental application that supersedes the October 16, 2012 application. As discussed in the supplemental application, TRRC modified its proposal by identifying its preferred routing for the proposed line as the Colstrip Alternative between Colstrip, Montana, and Ashland/Otter Creek, Montana. On January 8, 2013, the Board issued a decision accepting TRRC's supplemental application and

later denied a request to reconsider that decision and reject the supplemental application in a decision served on February 26, 2013. The purpose of the proposed line is to transport low sulfur, sub-bituminous coal from proposed mine sites in Rosebud and Powder River Counties, Montana. Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Office of Environmental Analysis (OEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*).

To help determine the scope of the EIS, and as required by the Board's regulations at 49 CFR 1105.10(a)(2), OEA published in the **Federal Register** on October 22, 2012, a Notice of Intent to Prepare an Environmental Impact Statement, Notice of Availability of the Draft Scope of Study, Notice of Scoping Meetings, and Request for Comments. OEA also prepared and distributed to the public a postcard that introduced TRRC's proposed rail line, announced OEA's intent to prepare an EIS, and gave notice of scoping meetings to residents of Powder River, Custer, and Rosebud Counties. In addition, OEA sent letters to elected officials, federal, state, and local agencies, tribal organizations, and other potentially interested organizations providing similar information. OEA held ten public scoping meetings in Lame Deer, Forsyth, Ashland, and Miles City, Montana, on November 12, 13, 14, 15, and 16, 2012. On November 30, 2012, OEA extended the scoping comment period from December 6, 2012 to January 11, 2013 in response to a number of requests for an extension and because the Board's November 1, 2012 decision had required TRRC to file additional information by December 17, 2012.

The U.S. Army Corps of Engineers (Corps), the U.S. Bureau of Land Management (BLM), the U.S. Department of Agriculture (USDA) and the Montana Department of Natural Resources Conservation (DNRC), acting as lead agency for other Montana State agencies, are participating as cooperating agencies in the preparation of the EIS. OEA is also consulting with tribes and other agencies, including the Northern Cheyenne Tribe, the U.S. Environmental Protection Agency (USEPA), and the Montana Department of Environmental Quality (MDEQ).

After review and consideration of all comments received, this notice sets forth the Final Scope of the EIS. The Final Scope reflects additions and

changes to the Draft Scope as a result of comments received during the scoping comment period. The Final Scope also summarizes and addresses the principal environmental concerns raised by the comments on the Draft Scope and explains if and how these issues will be addressed in the EIS.

**FOR FURTHER INFORMATION CONTACT:** Ken Blodgett, Office of Environmental Analysis, Surface Transportation Board, 395 E Street SW., Washington, DC 20423, or call OEA's toll-free number for the project at 1-866-622-4355. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. For further information about the Board's environmental review process and this EIS, please visit the Board's Web site at [www.stb.dot.gov](http://www.stb.dot.gov) or the Board-sponsored project Web site at [www.tonguerivereis.com](http://www.tonguerivereis.com).

**Background:** In 1986, the Board's predecessor agency, the Interstate Commerce Commission (ICC), gave approval to TRRC's predecessor to build and operate an 89-mile rail line between Miles City, Montana, and two termini located near Ashland, Montana, a proceeding known as *Tongue River I*.<sup>2</sup> The purpose of the line was to serve proposed new coal mines in the Ashland area. In 1996, the Board authorized TRRC to build a contiguous 41-mile rail line from Ashland to Decker, Montana, in *Tongue River II*.<sup>3</sup> In 2007, the Board authorized TRRC to build and operate the Western Alignment, a 17.3-mile alternate route for a portion of the route already approved in *Tongue River II* in a proceeding known as *Tongue River III*.<sup>4</sup> The ICC/Board's environmental staff, now OEA, prepared EISs in all three proceedings.

Petitions for review of *Tongue River II* and *Tongue River III* were filed in the United States Court of Appeals for the Ninth Circuit, and, in 2011, the court affirmed in part, and reversed and remanded in part, those decisions for additional environmental review.<sup>5</sup>

<sup>2</sup> *Tongue River R.R.—Rail Constr. and Operation—In Custer, Powder River and Rosebud Cnty., Mont.* (Tongue River I), FD 30186 (ICC served Sept. 4, 1985), modified (ICC served May 9, 1986), *pet. for judicial review dismissed*, *N. Plains Res. Council v. ICC*, 817 F.2d 758 (9th Cir.), *cert. denied*, 484 U.S. 976 (1987).

<sup>3</sup> *Tongue River R.R.—Rail Constr. and Operation—Ashland to Decker, Mont.* (Tongue River II), 1 S.T.B. 809 (1996), *pet. for reconsid. denied* (STB served Dec. 31, 1996).

<sup>4</sup> *Tongue River R.R.—Rail Constr. and Operation—Ashland to Decker, Mont.* (Tongue River III), FD 30186 (Sub-No. 3) (STB served Oct. 9, 2007), *pet. for reconsid. denied* (STB served Mar. 13, 2008).

<sup>5</sup> See *N. Plains Res. Council v. STB*, 668 F.3d 1067 (9th Cir. 2011).

<sup>1</sup> TRRC has stated that the proposed line would be constructed by TRRC and would be operated by BNSF Railway Company (BNSF).