

the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.<sup>21</sup> The Exchange further represents that these procedures are adequate to properly monitor Exchange-trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. Moreover, prior to the commencement of trading, the Exchange states that it will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange’s existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including the following:

(1) The Shares will be subject to NYSE Arca Equities Rule 8.600, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, underlying Equity Securities, and equity index futures contracts with other markets and other entities that are members of ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, Equity Securities, and equity index futures contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying Equity Securities, and equity index futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) The Equity Securities in which the Fund may invest (including Depositary Receipts, with the exception of unsponsored ADRs) will be listed on a U.S. national securities exchange, all of which are members of ISG. The Fund will not invest more than 10% of its investments in Equity Securities in unsponsored ADRs. All of the Fund’s equity index futures contracts will be

listed on an exchange that is a member of ISG.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (d) how information regarding the Portfolio Indicative Value and Disclosed Portfolio is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A-3 under the Act,<sup>22</sup> as provided by NYSE Arca Equities Rule 5.3.

(7) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment).

(8) Under normal market circumstances, at least 80% of the Fund’s net assets will be exposed to U.S. exchange-listed Equity Securities. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged ETFs. The Fund may invest up to 20% of its net assets in U.S. exchange-listed equity index futures contracts.

(9) A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. This approval order is based on all of the Exchange’s representations, including those set forth above and in the Notice, and the Exchange’s description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>23</sup> and the rules and regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (SR-NYSEArca-014-44) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Kevin M. O’Neill,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0392]

##### Enhancements to the Motor Carrier Safety Measurement System (SMS) Web Site

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

**ACTION:** Notice.

**SUMMARY:** FMCSA announces enhancements to the display of information on the public Safety Measurement System (SMS) Web site and responds to comments received in response to FMCSA’s **Federal Register** Notice, “Proposed Enhancements to the Motor Carrier Safety Measurement System (SMS) Public Web site” published on November 5, 2013. The changes to the design of the SMS public Web site do not alter the SMS methodology or affect a carrier’s safety rating, which is subject to 49 CFR part 385, Safety Fitness Procedures. The enhancements are a continuation of the Agency’s efforts, first announced in April 2010, to provide the motor carrier industry and other safety stakeholders with more comprehensive, informative, and regularly updated safety performance data. This notice explains the Agency’s modifications to the public SMS display, including four additional changes not originally proposed that resulted from comments received. The enhancements will be implemented when SMS data is updated in August 2014. The SMS display preview Web site will remain available until the SMS display changes described in this notice become operational.

**DATES:** These enhancements are scheduled to be operational on August 2, 2014.

**ADDRESSES:**

<sup>21</sup> The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA’s performance under this regulatory services agreement.

<sup>22</sup> 17 CFR 240.10A-3.

<sup>23</sup> 15 U.S.C. 78f(b)(5).

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to Room W12-140 on the ground floor of the DOT Headquarters Building at 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year.

**Privacy Act:** Anyone may search the electronic form of all 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 Privacy Act System of Records Notice for the DOT Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Courtney Stevenson, Federal Motor Carrier Safety Administration, Compliance Division, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202-366-5241, Email: [courtney.stevenson@dot.gov](mailto:courtney.stevenson@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Operations, Telephone (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation**

#### *Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert the docket number, "FMCSA-2013-0392" in the "Keyword" box and click "Search." Next, click "Open Docket Folder" button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### **II. Background**

The SMS uses data collected from roadside inspections, State-reported crashes, and investigations to quantify the relative safety performance of motor carriers. The Agency uses SMS data to proactively identify and prioritize high-risk motor carriers. This prioritization is used to allocate investigative resources, as well as identify motor carriers for

other actions such as a warning letters. FMCSA first announced the implementation of the SMS in the **Federal Register** on April 9, 2010 (75 FR 18256, Docket No. FMCSA-2004-18898). As FMCSA discussed in that notice, the SMS provides the motor carrier industry and other safety stakeholders with more comprehensive, informative, and regularly updated safety performance data. FMCSA announced further improvements to the SMS in March 2012 (77 FR 18298, Docket No. FMCSA-2012-0074) and August 2012 (77 FR 52110, Docket No. FMCSA-2004-18898). As stated in the March 2012 notice, FMCSA plans to apply a systematic approach to making improvements to SMS, prioritizing and releasing packages of improvements as needed.

Consistent with its prior announcements, on November 5, 2013, FMCSA announced proposed enhancements to the SMS Web site display and began a 60-day public comment period. The proposed enhancements were based on feedback received from enforcement, industry, and other safety stakeholders, including the Agency's Motor Carrier Safety Advisory Committee (MCSAC), which was asked in February 2013 to provide input to the Agency regarding potential improvement to the Agency's CSA program, including the SMS Web site.

Throughout the comment period, stakeholders were able to view the proposed changes on the SMS display preview Web site. In addition, the Agency conducted three webinars to educate and inform the public about the proposed enhancements. For the full background about the SMS, see **SUPPLEMENTARY INFORMATION** in the November **Federal Register** Notice, 78 FR 66420 (Nov. 5, 2013). The Hazardous Materials (HM) Compliance Behavior Analysis and Safety Improvement Category (BASIC) and Crash Indicator BASICS will continue to be hidden from public view.

FMCSA proposed these enhancements to advance the Agency's safety mission by making important information more understandable for motor carriers seeking to improve their safety performance and other public users interested in FMCSA data. These enhancements are an extension of the Agency's effort to provide more comprehensive, informative, and regularly updated safety and compliance performance data through a systematic approach, as announced in the April 9, 2010 and March 27, 2012 **Federal Register** notices.

The proposed Web site enhancements were developed to accomplish the following three key objectives:

(1) Provide easier, more intuitive navigation, and user-friendly features and descriptions to clarify the SMS's role as FMCSA's prioritization tool for interventions;

(2) Consolidate FMCSA safety information, so users do not have to go to multiple sites; and

(3) Provide improved access to detailed information and new performance monitoring tools.

It should be noted that the first objective, which includes clarifying SMS's role as a prioritization tool, is in alignment with recommendations from the MCSAC report submitted to FMCSA on June 9, 2014. One of several recommendations related to the SMS public display states that FMCSA should explain that the primary purpose of SMS is for enforcement.

The Web site enhancements that will take place on August 2, 2014, are summarized below:

(1) Displaying a summary BASIC status to better clarify if a motor carrier's performance in the individual BASICS causes it to be prioritized for an intervention. Detailed data, such as the motor carrier's percentile ranking in each BASIC, has been moved to the individual drill down pages for each BASIC.

(2) Offering a new "Take a Tour" feature to highlight enhancements to the SMS display and show visitors how to locate and use the site.

(3) Allowing the Web site user to download the data for all of the carriers in the same safety event group used to rank a motor carrier's BASIC percentile. The SMS determines a BASIC percentile for each motor carrier within a BASIC based on how the individual carrier's BASIC "measure" ranks relative to other carriers with a similar number of safety events (i.e., inspections, violations, or crashes).

(4) Highlighting a motor carrier's individual performance measure in each BASIC to more clearly identify its performance trends over time. The measure is based on the results of the carrier's roadside inspections or crashes, and is not relative to other motor carriers in its safety event group.

(5) Reordering the display of the BASICS based on their association to crash rates, with the BASICS with the strongest associations at the left.

(6) Displaying any motor carrier safety rating from a compliance review (CR) issued in accordance with 49 CFR Part 385. Previously, users had to go to FMCSA's Safety and Fitness Electronic Records (SAFER) System Web site.

(7) Displaying current insurance and operating authority status. Previously, users had to access FMCSA's Licensing and Insurance (L&I) Online Web site.

(8) Providing a motor carrier's enforcement case history, including the date the case was closed, the applicable violations, and the associated fines.

(9) Enhancing the presentation of safety performance over time through a variety of displays and graphs users can customize.

(10) Displaying the total number of inspections as well as a breakdown of the number of inspections with violations used in the SMS in each carrier's detailed information.

(11) Clarifying terminology in the SMS, such as the definitions of the terms "0%" and "<3 inspections with violations," in a new glossary called "SMS Display Key Terms."

FMCSA reviewed and considered all of the comments received related to the preview.

## II. Summary of Public Comments and Response

The Agency received 43 unique comments. Fifteen of the comments received did not address the proposed display enhancements and were outside of the scope of the notice. The Agency has considered only the comments addressing the proposed enhancements to the design of the SMS public Web site that were listed in the November 5, 2013, **Federal Register** notice. Comments addressing other topics, such as the SMS methodology and the general effectiveness of the SMS, were outside the scope of the notice and were not considered for the purposes of considering SMS display issues—the Agency accepts these comments as general feedback on CSA and will handle them accordingly. As a result, they are not discussed in this notice.

Commenters included representatives from the Advocates for Highway and Auto Safety (Advocates), American Trucking Associations (ATA), C.H. Robinson, Hazmat Environmental Group, Inc., American Bus Association (ABA), The Alliance for Safe, Efficient and Competitive Truck Transportation (ASECTT), National School Transportation Association, and the Owner-Operator Independent Drivers Association (OOIDA).

The majority of the commenters voiced support for the proposed enhancements. Commenters supported having a single location for public motor carrier safety data. However, many commenters offered recommendations to improve the Web site. The ABA commended the Agency for holding educational webinars to inform the

public on the display changes and suggested that the Agency continue this practice. Half of the supporters chose not to identify themselves with a specific stakeholder group, but those who did were primarily representatives from industry associations, motor carriers, drivers, and other safety stakeholders.

Below is a summary of the comments received that address the proposed changes and the Agency's responses:

### *(1) Displaying a Summary BASIC Status to Better Clarify if a Motor Carrier's Performance in the Individual BASICs Causes it To Be Prioritized for an Intervention*

FMCSA received ten comments to the docket relating to the summary BASIC status. C.H. Robinson commended the Agency for moving detailed BASIC information, such as the percentiles, to the site's internal Web pages. C.H. Robinson stated that the removal of the BASIC percentile ranks from the Carrier Overview page emphasizes that this data is used to prioritize investigation resources. OOIDA also saw this change as an improvement, but expressed a concern that BASIC percentile ranks are difficult to put into a meaningful context.

Advocates, Apex Capital Group, the Hazmat Environmental Group, Inc., and several individuals opposed the redesign of the Carrier Overview page. They argued that the page does not provide a concise snapshot of a carrier's safety profile and that it takes too many clicks to access detailed BASIC information, which increases workload. These commenters recommended that the Carrier Overview page retain the detailed carrier information that the current SMS Web site displays, such as BASIC percentile ranks and registration information. The Hazmat Environmental Group, Inc. also argued that a carrier's safety rating may be taken at face value without the BASIC percentile ranks on the overview page to provide additional information. Apex Capital Corp opposed the redesign and stated that BASIC prioritization status information should only be displayed with SMS disclaimer language on the internal pages of the Web site and removed from the Carrier Overview page in its entirety.

In addition, OOIDA questioned the inclusion of Serious Violations as part of the display and input into the BASIC prioritization status. They argued that these violations are not part of the SMS methodology and, therefore, are not used by FMCSA to prioritize carriers for interventions.

## Response

FMCSA designed the new Carrier Overview page to provide a summary of a carrier's prioritization status in each BASIC. This page is not intended to display detailed BASIC information. BASIC percentiles do not impact a carrier's safety rating and are not intended to imply any safety rating. However, FMCSA believes that easy access to detailed information is essential for our stakeholders. To address comments received, the Agency will revise the design of the Carrier Overview page to allow users single-click access to detailed BASIC information for a given carrier, across all BASICs.

In response to OOIDA's comments regarding Serious Violations, the Agency notes that Serious Violations from investigation findings have been factored into assessing a BASIC's prioritization status and have been publicly available since implementation of the SMS in 2010. The new Carrier Overview page displays a carrier's BASIC prioritization status, which equates to the summary "BASICs Status" column that has been available on the public SMS Web site since December 2010. To assist users in understanding BASIC prioritization status, the Agency plans to release an updated document which will centralize information regarding how both on-road performance data (percentiles) and investigation results (Serious Violations) have been and continue to be factored into a carrier's prioritization status. This document will be posted publicly following the SMS display release in August.

### *(2) Offering a New "Take a Tour" Feature To Highlight Enhancements to the SMS Display and Show Visitors How To Locate and Use the Site*

FMCSA did not receive any comments about this enhancement during the preview. The Agency plans to refine the "Take a Tour" feature to align with the modifications of the SMS display changes outlined in this notice.

### *(3) Allowing the Web Site User To View and Download the Data for All of the Carriers in the Same Safety Event Group Used To Rank a Motor Carrier's BASIC Percentile*

ATA and Advocates voiced their support for the inclusion of safety event group information on the display. ATA added that safety event group information for the Crash Indicator and Hazardous Materials (HM) Compliance BASICs should not be available for public download; while Advocates

stated that all BASIC information should be available to the public. In addition, Alejandro Canedo, Colleen Richie, Hazmat Environmental Group, Inc., and an anonymous commenter voiced concern that they could not find the print-ready carrier profile on the Web site and recommended that the Agency retain this functionality.

#### Response

The new display will allow all users to view and download safety event group information for publicly available BASICs. This information includes a carrier's U.S. DOT Number, name, number of relevant inspections, number of inspections with violations, and measure and percentile in that public BASIC. This notice does not change which BASICs are publicly available. The Crash Indicator and HM Compliance BASICs are not publicly available, and their associated safety event group information will not be made available to the public at this time.

The Agency did not remove the print-ready functionality from the SMS Web site. It is part of the preview site and will be part of the new SMS display when it becomes operational in August 2014. To better highlight this functionality for our stakeholders, the SMS display will include a "BASIC Status" menu with a "print" option.

#### *(4) Highlighting a Motor Carrier's Individual Performance Measure in Each BASIC To More Clearly Identify Its Performance Trends Over Time*

ATA commended the Agency for highlighting the carrier's measure, stating that this lays the groundwork for future improvements to the SMS methodology. Jerry Malinka recommended that carrier BASIC measure data be the only data shown to shippers, brokers, and other public stakeholders. OOIDA requested that the Agency clearly define a carrier's measure throughout the new display to clarify how the public should use this information.

#### Response

In response to this feedback, the new SMS display will include user-friendly descriptions of a carrier's measure and offer better explanations of its relationship to a carrier's percentile. These descriptions will be available on the graphs for each BASIC, the "SMS Display Key Terms" document located in the Help Center and additional locations on the site. This change is in alignment with a recommendation in the MCSAC report, which suggests FMCSA offer an "improved explanation

of the measures scores (i.e., raw scores) and how they can or should be used by the public."

#### *(5) Reordering the Display of the BASICs Based on Their Association To Crash Rates, With the BASICs With the Strongest Associations at the Left*

FMCSA acknowledges three commenters to the docket, Apex Capital Corp., ATA, and an anonymous commenter, who raised concerns regarding the new order of the BASICs. The anonymous commenter found the new order confusing, recommending that the new display retain the order of the BASICs on the current SMS Web site. Apex Capital Corp. and ATA suggested that the public display include a statement that explains that the BASICs are reordered based on their relationship to crash risk.

#### Response

The new order of the BASICs is based on the results of FMCSA's SMS Effectiveness Test, which is available at: [http://csa.fmcsa.dot.gov/Documents/CSMS\\_Effectiveness\\_Test\\_Final\\_Report.pdf](http://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf). The Agency conducted this test to evaluate the SMS as a workload prioritization tool to identify motor carriers with potential safety problems. An additional change to the Web site related to these comments is described in Section III below.

#### *(6) Displaying Any Motor Carrier Safety Rating Issued in Accordance With 49 CFR Part 385*

Several commenters, including ATA and TIA, applauded the Agency for including safety rating information on the Carrier Overview page of the SMS display. A representative from ATA suggested that the safety rating be displayed more prominently on the site. This member also requested that the Agency remove the "as of" date underneath the safety rating, arguing that this date implies that the rating is updated daily. The ASECTT expressed concern that displaying a carrier's safety rating on the same page as the BASICs would give a reader the impression that a carrier's BASIC prioritization status is co-equal with its safety rating.

#### Response

One of the key objectives of the SMS display enhancements is to provide a single location for FMCSA's safety information about motor carriers. FMCSA will display the safety rating at the top of the Carrier Overview page, and FMCSA believes this location meets the stated objectives. In addition, the "as of" date is necessary to distinguish between the "Rating Date" and the date

the rating information was pulled from the SAFER System Web site. The "as of" date is the date the information was pulled from SAFER, while the "Rating Date" is the date the rating itself was issued by the Agency. These dates will be clearly indicated in the Web site accordingly.

Regarding the comment from ASECTT, nothing on the SMS Web site advises users to consider a carrier's BASIC prioritization status co-equally with its safety rating. The SMS Web site will retain its current disclaimer, which advises users that a carrier's BASIC prioritization status "is not intended to imply any Federal safety rating of the carrier pursuant to 49 U.S.C. 31144." FMCSA encourages users to examine all sources of FMCSA's safety information in order to obtain the most comprehensive picture of a motor carrier's safety and compliance status.

#### *(7) Displaying Current Insurance and Operating Authority Status*

Jennifer Spencer, Advocates, ATA, Knight Transportation, Inc., TIA, and a commenter identified as G.O. supported this enhancement, and some of them recommended that the Agency provide additional licensing and insurance information. Advocates and Jennifer Spencer requested that the display include the type and status of a carrier's operating authority. Jennifer Spencer, Knight Transportation, Inc., and G.O. all suggested that the display list the carrier's insurance type and filing status.

#### Response

FMCSA is providing a link to the L&I Online Web site on the display rather than duplicating the detailed information on that site. The L&I Online Web site is a public database that provides users with access to authorized for-hire motor carrier, freight forwarder, and property broker licensing and insurance information.

#### *(8) Providing a Motor Carrier's Enforcement Case History, Including the Date the Case Was Closed, the Applicable Violations, and the Associated Fines*

ATA raised a concern that the penalties history information on the display does not provide sufficient context for the fines issued to carriers for past violations. ASECTT expressed concern that including the penalties history information would give a reader the impression that penalty history is as relevant as the carrier's safety rating.

## Response

To address ATA's concern, FMCSA will improve the Penalties History section by providing a link to the Agency's Civil Penalties Web page, where there is a description of closed enforcement cases by fiscal year. The Agency has posted enforcement history information for many years on this site. An enforcement case is considered "closed" once the Agency issues the carrier a "Notice of Claim" (NOC) and the carrier has (1) paid the penalty in full, (2) signed a settlement agreement, or (3) a "Final Agency Order" was issued. Each closed enforcement case listed includes the U.S. DOT Number, name, city and State, the violations that resulted in the enforcement action, the case number, and the total amount settled. The SMS Web site will not display any penalties history information that was not previously publicly available. Nothing on the SMS Web site advises users to consider a carrier's penalties history.

*(9) Enhancing the Display of Safety Performance Over Time Through a Variety of Displays and Graphs Users Can Customize*

ATA and OOIDA supported the Agency's enhanced graphs and displays of a carrier's safety performance over time, and provided recommendations to clarify these tools. OOIDA requested that the Agency clearly define a carrier's measure on the graphs, and throughout the display, to show how the public should use this information. ATA added that the Agency should improve the design of the graphs to make them more user-friendly.

## Response

FMCSA believes it is important to ensure that our stakeholders can understand the safety data presented on the SMS Web site. The Agency will clarify a carrier's measures throughout the display to show how the measures are calculated, as well as how they relate to the carrier's percentiles.

*(10) Displaying the Total Number of Inspections as Well as a Breakdown of the Number of Inspections With Violations Used in the SMS for a Carrier*

The Agency did not receive any comments that addressed this change.

*(11) Clarifying Terminology in the SMS, Such as the Definitions of the Terms "0%" and "<3 Inspections With Violations," in a New Glossary Called "SMS Display Key Terms"*

ATA and C.H. Robinson recommended that the Agency modify the display's BASIC percentile

description. Both suggested the description be written in terms that are positive, rather than negative, as to how a carrier relates to its safety event group.

## Response

FMCSA believes the description proposed meets the stated objectives. The percentile represents how the individual carrier is performing compared to other carriers in the safety event group. For example, a 90 percentile indicates that, as stated in the description, "90% of motor carriers in the same safety event group have better on-road performance than this motor carrier." Switching the description to positive terminology would result in one numeric value (90) being displayed in the percentile column, with a different numeric value (10) being used in the description, and may increase confusion for users. Although it will not rephrase as suggested by these commenters, the Agency will otherwise clarify the definition of percentiles as they relate to safety event groups on the Web site.

### III. Additional Changes

FMCSA is implementing additional changes as listed below based on careful consideration of comments received and stakeholder feedback. These changes are in addition to some cosmetic changes recommended by commenters such as changing the colors in the display to better distinguish between icons and BASICS that are prioritized.

*(1) Providing a Carrier With Its Own Inspection Selection System (ISS) Information, Including the Carrier's ISS Score, Inspection Recommendations, and the Basis for Those Recommendations*

Alejandro Canedo, Colleen Richie and Hazmat Environmental Group, Inc., requested that the Carrier Overview page include a carrier's individual ISS information to help educate carriers on what their ISS is and equip them with some of the information used by enforcement.

## Response

The Agency will provide carriers who are logged into the SMS Web site with their own ISS information on the Carrier Overview page. The information provided will include the carrier's ISS score, inspection recommendations, the basis for those recommendations, and a link to the ISS methodology. Previously, carriers and enforcement users had to log into the Agency's Portal to obtain this information. Since the rollout of the SMS in December 2010, ISS information has been, and will continue to be,

unavailable to the public and will not be made publicly available at this time. Motor carriers will be able to view only their own ISS information.

*(2) Providing Carrier and Driver Out-of-Service (OOS) Rates and National Averages To Allow Users To Compare an Individual Company's OOS Rate With the National Average for Commercial Motor Vehicles (CMVs)*

Advocates requested that FMCSA include driver and carrier OOS rates and the national average OOS rates to enable users to compare an individual company's rate with the national average of CMVs on the roads.

## Response

The Agency will provide driver and vehicle OOS information based on data currently publicly available on FMCSA's SAFER System Web site. A link to SAFER for more detailed information is also available on the SMS display.

*(3) Acknowledging Distinctions Between BASICS and Crash Involvement by Incorporating BASIC Status To Crash Rate Graphs From FMCSA's SMS Effectiveness Test*

ATA stated that the Web site should clearly indicate the relationship of each BASIC to safety.

## Response

As mentioned above, FMCSA recently conducted an SMS Effectiveness Test that examined the ability of the SMS to identify carriers with safety problems for interventions. In response to this comment, the Agency will provide a link to the SMS Effectiveness Test report and display the results in two 'BASIC Status to Crash Rate' graphs on the SMS Web site. The graphs will show test results on the overall crash rates of companies prioritized for intervention by number and type of BASIC, compared to companies that were not prioritized. The SMS Effectiveness Test report is available at: [http://csa.fmcsa.dot.gov/Documents/CSMS\\_Effectiveness\\_Test\\_Final\\_Report.pdf](http://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf). This change is also in alignment with a recommendation in the MCSAC report noted above, which suggests FMCSA provide "examples of how the different BASIC ratings can be used to make interpretations about comparative crash risk between carriers with different ratings."

*(4) Displaying a Carrier's "Doing Business As" (DBA) Name To Enhance the Search Options on the Web Site*

Advocates recommended that the Agency provide the carrier's DBA name

to give users additional ways to search for carriers on the Web site.

#### Response

In response to this feedback, the Agency will provide a carrier's DBA name to improve the search functionality on the site.

#### IV. Implementation

The SMS display enhancements explained in this notice will be implemented in August 2014. The Agency is developing outreach materials and plans to host several educational webinars for the public addressing the enhancements to the public SMS Web site. The webinars will address the enhancements to the public SMS Web site, as well as MCMIS changes to improve uniformity in the treatment of violations data that was announced in 79 FR 32491. These webinars will take place after the implementation of the display changes to give stakeholders time to familiarize themselves with the enhanced SMS Web site and identify any questions they may have. The scheduled dates and times of the educational webinars are below:

Wednesday, August 20, 2014 10:00–11:30 a.m. Eastern Time

Wednesday, August 20, 2014 2:00–3:30 p.m. Eastern Time

Thursday, August 21, 2014 2:00–3:30 p.m. Eastern Time

All the webinars will have closed captioning available, and all stakeholders are encouraged to participate. Interested parties can register for the webinars through the FMCSA's National Training Center at <http://www.fmcsa.dot.gov/safety/overview-fmcsa-safety-measurement-system-display-enhancements-industry-webinar>. A copy of the webinar will also be available on the Agency's Web site at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

Issued on: July 21, 2014.

**Anne S. Ferro,**  
Administrator.

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**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Environmental Impact Statement for the California High-Speed Rail System Palmdale to Burbank Section, CA

**AGENCY:** Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement (EIS).

**SUMMARY:** FRA is issuing this notice to advise other Federal, state, and local agencies and the public that FRA and the California High-Speed Rail Authority (Authority) are amending the existing 2007 Notice of Intent for the Palmdale to Los Angeles Section and will jointly prepare an Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) for the Palmdale to Burbank Section of the California High-Speed Rail (HSR) System in compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act of 1969 (NEPA). FRA is publishing this notice to solicit additional public and agency input into the development of the scope of the EIS and to advise the public that outreach activities conducted by the FRA and the Authority and their representatives will be considered in the preparation of the EIR/EIS. Federal cooperating agencies for the EIS are the Surface Transportation Board (STB), the U.S. Army Corps of Engineers (USACE), and the Bureau of Land Management (BLM).

In March 2007, FRA and the Authority respectively issued a Notice of Preparation and a Notice of Intent for the preparation of an EIR/EIS for the Palmdale to Los Angeles Section of the Authority's proposed California HSR System. Because the Palmdale to Los Angeles Section of the HSR System will be implemented in two parts consistent with Authority's Business Plan that prioritizes an Initial Operating Section (IOS) with a southern temporary terminus in the San Fernando Valley, the FRA and Authority have determined that there are two sections of the HSR System between Palmdale and Los Angeles and they will be better evaluated in two separate EIR/EISs: Palmdale to Burbank and Burbank to Los Angeles. Each of these sections has logical termini and independent utility, as discussed further below. This notice provides information regarding the Project EIR/EIS for the Palmdale to Burbank Section of the California HSR System (proposed action). The Burbank to Los Angeles Section of the California HSR System is the subject of a separate Notice of Intent, which is being published concurrently with this notice. The preparation of the Palmdale to Burbank Section EIR/EIS will involve a robust public outreach process; the development of preliminary engineering designs; and the assessment of potential environmental effects associated with the construction, operation, and maintenance of the HSR System.

**DATES:** Written comments on the scope of the Palmdale to Burbank EIR/EIS

should be provided to the address below by August 25, 2014. Public scoping meetings are scheduled from August 5, 2014 to August 19, 2014 as noted below in the **SUPPLEMENTARY INFORMATION** section. Scoping materials and information concerning the scoping meetings is available through the Authority's Web site: [http://hsr.ca.gov/Programs/Statewide\\_Rail\\_Modernization/project\\_sections/palmdale\\_burbank.html](http://hsr.ca.gov/Programs/Statewide_Rail_Modernization/project_sections/palmdale_burbank.html).

**ADDRESSES:** Written comments on the scope should be sent to Mark A. McLoughlin, Director of Environmental Services, Attention: Palmdale to Burbank Section EIR/EIS, California High-Speed Rail Authority, 700 North Alameda Street, Room 3–532, Los Angeles, CA 90012, or via email with subject line “Palmdale to Burbank Section EIR/EIS” to: [palmdale\\_burbank@hsr.ca.gov](mailto:palmdale_burbank@hsr.ca.gov).

Comments may also be provided orally or in writing at scoping meetings. See the **SUPPLEMENTARY INFORMATION** section for meeting times and addresses.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stephanie Perez, Environmental Protection Specialist, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Avenue SE., (Mail Stop 20), Washington, DC 20590, telephone: (202) 493–0388, email: [stephanie.perez@dot.gov](mailto:stephanie.perez@dot.gov); or Mr. Mark A. McLoughlin, Director of Environmental Services, California High-Speed Rail Authority, 700 North Alameda Street, Room 3–532, Los Angeles, CA 90012, telephone: (800) 630–1039, email: [palmdale\\_burbank@hsr.ca.gov](mailto:palmdale_burbank@hsr.ca.gov).

**SUPPLEMENTARY INFORMATION:** FRA is an operating administration of the U.S. Department of Transportation and has responsibility for overseeing the safety of railroad operations, including the safety of any proposed high-speed ground transportation system. FRA is also authorized to provide, subject to appropriations, Federal funding for intercity passenger rail capital investments including high-speed rail. Federal cooperating agencies for the EIS are BLM, STB, and USACE. BLM has approval authority over the use of public lands under their control. STB has exclusive jurisdiction, pursuant to 49 U.S.C. 10501(b), over the construction, acquisition, operation, and abandonment of rail lines, railroad rates, and services and rail carrier consolidations and mergers. The construction and operation of the proposed California HSR System is subject to STB's approval authority under 49 U.S.C. 10901. USACE has