

ensure the full range of issues related to the proposed action and reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in determining whether there are areas of environmental concern where there might be a potential for significant site-specific impacts. Public agencies with jurisdiction are requested to advise FRA and the Authority of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the Project EIR/EIS. Public scoping meetings have been scheduled as an important component of the scoping process for both the State and Federal environmental review. The scoping meetings described in this Notice will also be the subject of additional public notification.

FRA is seeking participation and input of all interested Federal, State, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIR/EIS. Implementation of the San Jose to Merced section of the HST system is a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, FRA intends to coordinate compliance with section 106 of this Act with the preparation of the EIR/EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on March 9, 2009.

**Ray LaHood,**

*Secretary, U.S. Department of Transportation.*  
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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Environmental Impact Statement for the California High Speed Train Project From Merced to Bakersfield, CA

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

**ACTION:** Notice of intent to prepare an Environmental Impact Statement.

**SUMMARY:** This notice is to advise the public that FRA and the California High Speed Rail Authority (Authority) will jointly prepare a project Environmental Impact Statement (EIS) and project Environmental Impact Report (EIR) for the Merced-to-Bakersfield section of the Authority's proposed California High-Speed Train (HST) System in compliance with relevant State and Federal laws, in particular the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

In 2001, the Authority and FRA started a tiered environmental review process for the HST system and in 2005, completed the first tier California High Speed Train Program EIR/EIS and approved the statewide HST system for intercity travel in California between the major metropolitan centers of Sacramento and the San Francisco Bay Area in the north, through the Central Valley, to Los Angeles and San Diego in the south. The approved HST system would be about 800-miles long, with electric propulsion and steel-wheel-on-steel-rail trains capable of operating speeds of 220 miles per hour (mph) on a dedicated system of fully grade-separated, access-controlled steel tracks and with state-of-the-art safety, signaling, communication, and automated train control systems. In approving the HST system, the Authority and FRA also selected preferred corridor alignments and station location options throughout most of the system. In 2008, the Authority and FRA completed a second program EIR/EIS to evaluate alignments and station locations within the broad corridor between and including the Altamont Pass and the Pacheco Pass to connect the Bay Area and Central Valley portions of the HST system. The Authority and FRA selected the Pacheco Pass with San Francisco and San Jose termini network alternative, as well as preferred corridor alignments and station location options. The selected alignment uses the Union Pacific (UPRR) railroad corridor through the portion of the Central Valley from just

north of Madera to just south of Stockton and the Burlington Northern Santa Fe (BNSF) alignment from Madera to Bakersfield, as selected with the Statewide Program EIR/EIS.

The preparation of the Merced to Bakersfield HST Project EIR/EIS will involve development of preliminary engineering designs and assessment of environmental effects associated with the construction, operation, and maintenance of the HST system, including track, ancillary facilities and stations, along the preferred alternative corridors from Merced to Bakersfield.

**DATES:** Written comments on the scope of the Merced to Bakersfield HST Project EIR/EIS should be provided to the Authority by April 10, 2009. Public scoping meetings are scheduled from March 18, 2009 to March 26, 2009, as noted below in the cities of Merced, Madera, Fresno, Visalia, and Bakersfield.

**ADDRESSES:** Written comments on the scope should be sent to Ms. Carrie Pourvahidi, Deputy Director, ATTN. Merced to Bakersfield, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814, or via e-mail with subject line "Merced to Bakersfield HST" to: [comments@hsr.ca.gov](mailto:comments@hsr.ca.gov). Comments may also be provided orally or in writing at the scoping meetings scheduled as follows:

- *March 18, 2009:* Merced Community Senior Center, from 3 p.m. to 7 p.m.
- *March 19, 2009:* Madera County Fairgrounds, 1850 West Cleveland Avenue, Madera, from 3 p.m. to 7 p.m.
- *March 24, 2009:* Visalia Convention Center, 303 E. Acequia Avenue, Visalia, from 3 p.m. to 7 p.m.
- *March 25, 2009:* Fresno Convention Center (Exhibit Hall), 848 M Street, Fresno, from 3 p.m. to 7 p.m.
- *March 26, 2009:* Rabobank Theater, 1001 Truxtun Avenue, Bakersfield, from 3 p.m. to 7 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Valenstein, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE. (Mail Stop 20), Washington, DC 20590; Telephone: (202) 493-6368, or Ms. Carrie Pourvahidi, Telephone: (916) 324-1541 at the above noted address.

**SUPPLEMENTARY INFORMATION:** The Authority was established in 1996 and is authorized and directed by statute to undertake the planning and development of a proposed statewide HST network that is fully coordinated with other public transportation

services. The Authority adopted a Final Business Plan in June 2000, which reviewed the economic feasibility of an 800-mile-long HST capable of operating speeds in excess of 200 miles per hour on a dedicated, fully grade-separated state-of-the-art track. The Authority released an updated Business Plan in November 2008.

The FRA has responsibility for oversight of the safety of railroad operations, including the safety of any proposed high-speed ground transportation system. For the proposed HST, it is anticipated that FRA would need to take certain regulatory actions prior to operation.

In 2005, the Authority and FRA completed a Final Program EIR/EIS for the Proposed California High Speed Train System (Statewide Program EIR/EIS), as the first phase of a tiered environmental review process. The Authority certified the Final Program EIR under CEQA and approved the proposed HST System, and FRA issued a Record of Decision under NEPA on the Final Program EIS. This statewide program EIR/EIS established the purpose and need for the HST system, analyzed an HST system, and compared it with a No Project/No Action Alternative and a Modal Alternative. In approving the statewide program EIR/EIS, the Authority and FRA selected the HST Alternative, selected certain corridors/general alignments and general station locations for further study, incorporated mitigation strategies and design practices, and specified further measures to guide the development of the HST system at the site-specific project level of environmental review to avoid and minimize potential adverse environmental impacts. In the subsequent Bay Area to Central Valley HST Final Program EIR/EIS, the Authority and FRA selected the Pacheco Pass alternative, via Henry Miller Road, as the preferred alternative to connect the Bay Area to the Central Valley.

The Merced to Bakersfield HST Project EIR/EIS will tier from the Final Statewide Program EIR/EIS and the Final Bay Area to Central Valley HST Program EIR/EIS in accordance with Council on Environmental Quality (CEQ) regulations, (40 CFR 1508.28) and State CEQA Guidelines (14 C.C.R. 15168[b]). Tiering will ensure that the Merced to Bakersfield HST Project EIR/EIS builds upon all previous work prepared for and incorporated in the Statewide Program EIR/EIS and the Bay Area to Central Valley HST Program EIR/EIS.

This Project EIR/EIS will describe site-specific environmental impacts,

will identify specific mitigation measures to address those impacts and will incorporate design practices to avoid and minimize potential adverse environmental impacts. The FRA and the Authority will assess the site characteristics, size, nature, and timing of proposed site-specific projects to determine whether the impacts are potentially significant and whether impacts can be avoided or mitigated. This project EIR/EIS will identify and evaluate reasonable and feasible site-specific alignment alternatives, and evaluate the impacts from construction, operation, and maintenance of the HST system. Information and documents regarding this HST environmental review process will be made available through the Authority's Internet site: <http://www.cahighspeedrail.gov/>.

*Purpose and Need:* The purpose of the proposed HST system is to provide a new mode of high-speed intercity travel that would link major metropolitan areas of the State; interface with international airports, mass transit, and highways; and provide added capacity to meet increases in intercity travel demand in California in a manner sensitive to and protective of California's unique natural resources. The need for a HST system is directly related to the expected growth in population, and increases in intercity travel demand in California over the next twenty years and beyond. With the growth in travel demand, there will be an increase in travel delays arising from the growing congestion on California's highways and at airports. In addition, there will be negative effects on the economy, quality of life, and air quality in and around California's metropolitan areas from a transportation system that will become less reliable as travel demand increases. The intercity highway system, commercial airports, and conventional passenger rail serving the intercity travel market are currently operating at or near capacity, and will require large public investments for maintenance and expansion to meet existing demand and future growth.

*Alternatives:* The Merced to Bakersfield HST Project EIR/EIS will consider a No Action or No Project Alternative and an HST Alternative for the Merced to Bakersfield section.

*No Action Alternative:* The No Action Alternative (No Project or No Build) represents the conditions in the corridor as it existed in 2007, and as it would exist based on programmed and funded improvements to the intercity transportation system and other reasonably foreseeable projects through 2035, taking into account the following sources of information: State

Transportation Improvement Program (STIP), Regional Transportation Plans (RTPs) for all modes of travel, airport plans, intercity passenger rail plans, city and county plans.

*HST Alternative:* The Authority proposes to construct, operate and maintain an electric-powered steel-wheel-on-steel-rail HST system, about 800 miles long, capable of operating speeds of 220 mph on dedicated, fully graded-separated tracks, with state-of-the-art safety, signaling, and automated train control systems. As part of the Bay Area to Central Valley HST Program EIR/EIS, the Authority and FRA selected the Union Pacific (UPRR) railroad alignment through the portion of the Central Valley from just north of Madera to just south of Stockton as the preferred alternative. This Project EIR/EIS will also evaluate the BNSF railroad alignment in this part of the Central Valley because of the uncertainty of negotiating with the UPRR for some of their right-of-way and will continue investigation of alignments/linkages to a potential maintenance facility at Castle AFB. The BNSF alignment from Madera to Bakersfield was selected as the preferred alignment for this portion of the Central Valley in the Statewide Program EIR/EIS. As defined in the Statewide Program EIR/EIS, this alignment would utilize the UPRR corridor through the urban area of Fresno, and would require a new high-speed alignment around the city of Hanford. Alignment alternatives will also be evaluated to serve a potential station in the Visalia/Hanford/Tulare area. The HST would operate in this area at speeds up to 220 mph on tracks separate from the existing BNSF and UP tracks. Further engineering studies to be undertaken as part of this EIR/EIS process will examine and refine alignments in the BNSF and UP corridors. The entire alignment would be grade separated from existing roadways. In addition, alternative sites for right-of-way maintenance, train storage facilities and a heavy maintenance and repair facility will be evaluated in the Merced to Bakersfield HST project area.

The three preferred station locations selected by the Authority and FRA through the Bay Area to Central Valley HST Final Program-Level EIR/EIS will be evaluated in the Merced to Bakersfield HST Project EIR/EIS. These stations are downtown Merced, downtown Fresno, and downtown Bakersfield. Alternative station sites at or near the selected station locations may be identified and evaluated. A potential HST station to serve the

Visalia/Hanford/Tulare area will also be evaluated in this Project EIR/EIS.

**Probable Effects:** The purpose of the EIR/EIS process is to explore in a public setting the effects of the proposed project on the physical, human, and natural environment. The FRA and the Authority will continue the tiered evaluation of all significant environmental, social, and economic impacts of the construction and operation of the HST system. Impact areas to be addressed include transportation impacts; safety and security; land use and zoning; land acquisition, displacements, and relocations; agricultural land impacts; cumulative and secondary impacts; cultural resource impacts, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; and natural resource impacts including air quality, wetlands, water resources, noise, vibration, energy, wildlife and ecosystems, including endangered species. Measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated.

The Merced to Bakersfield HST Project EIR/EIS will be prepared in accordance with FRA's Procedures for Considering Environmental Impacts (64 FR 28545 [May 26, 1999]) and will address not only NEPA and CEQA but will also address as necessary other applicable statutes, regulations, and executive orders, including the Clean Air Act, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act of 1966, Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice.

This EIR/EIS process will also continue the NEPA/Clean Water Act Section 404 integration process established through the Statewide Program EIR/EIS process. The EIR/EIS will evaluate project alignment alternatives, and station and maintenance facility locations to support a determination of the Least Environmentally Damaging Practicable Alternative ("LEDPA") by the U.S. Army Corps of Engineers.

**Scoping and Comments:** FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the proposed action and reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in

determining whether there are areas of environmental concern where there might be a potential for significant site-specific impacts. Public agencies with jurisdiction are requested to advise FRA and the Authority of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the Project EIR/EIS. Public scoping meetings have been scheduled as an important component of the scoping process for both the State and Federal environmental review. The scoping meetings described in this Notice will also be the subject of additional public notification.

FRA is seeking participation and input of all interested Federal, State, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the EIR/EIS. Implementation of the Merced to Bakersfield section of the HST system is a Federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, FRA intends to coordinate compliance with section 106 of this Act with the preparation of the EIR/EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on March 9, 2009.

**Ray LaHood,**

*Secretary, U.S. Department of Transportation.*  
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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2008-0118; Notice 2]**

#### **Continental Tire North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance**

Continental Tire North America, Inc. (Continental), has determined that certain passenger car tires manufactured during December of 2007 and January of

2008 did not fully comply with paragraph S5.5(e) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139 *New Pneumatic Radial Tires for Light Vehicles*. Continental has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Continental has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on June 26, 2008 in the **Federal Register** (73 FR 36371). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0118."

For further information on this decision, contact Mr. George Gillespie, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5299, facsimile (202) 366-7002.

Affected are approximately 1,925 size 255/60R17 106 H Continental CrossContact LX ETRTO passenger car tires manufactured in Continental's Mount Vernon, Illinois plant during December of 2007 and January of 2008.

Paragraph S5.5(e) of FMVSS No. 139 requires in pertinent part:

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches \* \* \*.

(e) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire; \* \* \*.

Continental explains that the noncompliance is that the sidewall marking incorrectly identifies the