

SUMMARY: FMCSA announces its decision to renew exemptions for 13 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on July 12, 2021. The exemptions expire on July 12, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number, FMCSA-2008-0355, FMCSA-2011-0089, FMCSA-2014-0381, FMCSA-2014-0382, FMCSA-2017-0253, FMCSA-2018-0057, FMCSA-2019-0028, or FMCSA-2019-0029 in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in

the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy.

II. Background

On July 15, 2021, FMCSA published a notice announcing its decision to renew exemptions for 13 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (86 FR 37397). The public comment period ended on August 16, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria¹ to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based on its evaluation of the 13 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of July 12, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 37397):

Prince Austin, Jr. (OH)
Darcy Baker (OH)
Gary Bartels (SD)
Frank Cekovic (PA)
Monte DeRocini (PA)
Teddy Dixon (GA)

¹ These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

Jaime Dougherty (MN)
Martin Ford (WI)
David Johnston (HI)
Brent Mapes (IL)
Enrico Mucci (PA)
Charles Skelton (AL)
Kevin Wiggins (KY)

The drivers were included in docket number FMCSA-2008-0355,

FMCSA-2011-0089, FMCSA-2014-0381, FMCSA-2014-0382, FMCSA-2017-0253, FMCSA-2018-0057, FMCSA-2019-0028, or FMCSA-2019-0029. Their exemptions were applicable as of July 12, 2021 and will expire on July 12, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being 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(b).

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Funding Opportunity for Consolidated Rail Infrastructure and Safety Improvements

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

ACTION: Notice of Funding Opportunity (NOFO or notice).

SUMMARY: This notice details the application requirements and procedures to obtain grant funding for eligible projects under the Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program, and related Trespass Prevention projects. The opportunities described in this notice are made available under Assistance Listings Number 20.325, “Consolidated Rail Infrastructure and Safety Improvements.”

DATES: Applications for funding under this solicitation are due no later than 5:00 p.m. ET, November 29, 2021. Applications that are incomplete or received after 5:00 p.m. ET on November 29, 2021 will not be considered for funding. See *Section D* of

this notice for additional information on the application process.

ADDRESSES: Applications must be submitted via www.Grants.gov. Only applicants who comply with all submission requirements described in this notice and submit applications through www.Grants.gov will be eligible for award. For any supporting application materials that an applicant is unable to submit via www.Grants.gov (such as oversized engineering drawings), an applicant may submit an original and two (2) copies to Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–212, Washington, DC 20590. However, due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, applicants are advised to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline.

FOR FURTHER INFORMATION CONTACT: For further project or program-related information in this notice, please contact Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38–212, Washington, DC 20590; email: douglas.gascon@dot.gov; phone: 202–493–0239.

SUPPLEMENTARY INFORMATION:

Notice to applicants: FRA recommends that applicants read this notice in its entirety prior to preparing application materials. Definitions of key terms used throughout the NOFO are provided in *Section A(3)* below. These key terms are capitalized throughout the NOFO. There are several administrative prerequisites and specific eligibility requirements described herein with which applicants must comply. Additionally, applicants should note that the required Project Narrative component of the application package may not exceed 25 pages in length.

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A. Program Description

(A) Overview

Our nation's rail network is a critical component of the U.S. transportation

system and economy. Prior to the coronavirus disease 2019 (COVID–19) pandemic, rail carried over 32.5 million passengers on Amtrak services and approximately 1.6 billion tons of freight valued at over \$600 billion each year. The CRISI program will enhance rail safety, help to undo inequities caused by transportation and land use policies and create new opportunities for underserved communities, provide energy efficient transportation options to confront the effects of climate change, invest in projects that spur economic growth, and ensure our world-class freight network can meet the mobility demands of a growing population.

Congress authorized the CRISI grant program for the Secretary to invest in a wide range of projects within the United States to improve railroad safety, efficiency, and reliability; mitigate congestion at both intercity passenger and freight rail chokepoints; enhance multi-modal connections; and lead to new or substantially improved Intercity Passenger Rail Transportation corridors. Rail safety projects include, but are not limited to, grade crossing enhancements, rail line Relocations and Improvements, and deployment of railroad safety technology. Eligible activities also include regional rail and corridor Planning, environmental analyses, research, workforce development, and training. The purpose of this notice is to solicit applications for the competitive CRISI Program provided in Consolidated Appropriations Act, 2021, Div. L, Tit I, Public Law 116–260 (2021 Appropriation) and related funding provided in the Consolidated Appropriations Act, 2019, Div. G, Tit I, Public Law 116–6 (2019 Appropriation).

The CRISI Program is authorized under Section 11301 of the Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (2015); 49 U.S.C. 22907. Grant funding to help implement FRA's National Strategy to Prevent Trespassing for law enforcement agencies and for railroad trespass suicide prevention programs (Non-CRISI Funding), as provided in the 2021 Appropriation and the 2019 Appropriation, is authorized pursuant to 49 U.S.C. 103(i) and 49 U.S.C. 20151(b). Unless otherwise stated herein, to the extent practicable, applications for the Non-CRISI Funding will be evaluated consistent with the selection criteria for a CRISI safety program under 49 U.S.C. 22907(c)(10).

Consistent with Biden-Harris Administration priorities, the Department seeks to fund projects that address climate change impacts and environmental justice. Projects should

include components that reduce emissions, promote energy efficiency, increase resiliency, and recycle or redevelop existing infrastructure. This objective is consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619). As part of the Department's implementation of that Executive Order, the Department encourages the submission of applications that would direct resources and benefits towards low-income communities, disadvantaged communities, or communities underserved by affordable transportation.

The Department also seeks to encourage racial equity by investing in projects that proactively address racial equity and barriers to opportunity. Projects should include components that improve or expand transportation options, and mitigate the safety risks and detrimental quality of life effects that rail lines can have on communities, particularly low-income areas and communities of color. This objective supports the Department's strategic goal related to infrastructure, with the potential for significantly enhancing environmental stewardship and community partnerships, and reflects Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). *Section E* describes the climate change, environmental justice, and racial equity considerations that an applicant can undertake to address these criteria.

Consistent with the Rural Opportunities to Use Transportation for Economic Success (R.O.U.T.E.S.) initiative, the Department seeks rural projects that address deteriorating conditions and disproportionately high fatality rates on rural transportation infrastructure. Please visit <https://www.transportation.gov/rural> to learn more about DOT's efforts to address disparities in rural infrastructure.

(B) Changes From FY 2020 CRISI NOFO

This notice updates the FY 2020 CRISI NOFO to reflect the Biden-Harris Administration's priorities for creating good-paying jobs, improving safety, applying transformative technology, and explicitly addressing climate change and racial equity as discussed in *Section E(1)(c)*. This NOFO also incorporates Non-CRISI Funding.

There are three legislative set-asides for the CRISI funding under this notice:

- (1) Rural Set-Aside—for projects located in Rural Areas,
- (2) Intercity Passenger Rail Set-Aside—for certain intercity passenger rail development projects, and

(3) Capital Improvements for Trespass Prevention Set-Aside—for trespass prevention capital projects.

Additionally, FRA is making Non-CRISI funding available funding for:

(A) Railroad Trespassing Enforcement—for projects for law enforcement strategies for reducing trespassing, and

(B) Railroad Trespassing Suicide Prevention—for the implementation of railroad trespassing suicide prevention programs.

Applicants should state in their applications whether their project falls within one or more of the above set-asides, each as further described in *Section B.1*.

Definitions of Key Terms

Terms defined in this section are capitalized throughout this NOFO.

a. “Benefit-Cost Analysis” (or “Cost-Benefit Analysis”) is a systematic, data driven, and transparent analysis comparing monetized project benefits and costs, using a no-build baseline and properly discounted present values, including concise documentation of the assumptions and methodology used to produce the analysis; a description of the baseline, data sources used to project outcomes, and values of key input parameters; basis of modeling including spreadsheets, technical memos, etc.; and presentation of the calculations in sufficient detail and transparency to allow the analysis to be reproduced and for sensitivity of results evaluated by FRA. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA’s website for rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI applications.

b. “Capital Project” means a project for acquiring, constructing, improving, or inspecting rail equipment, track and track structures, or a rail facility; expenses incidental to the acquisition or Construction including pre-construction activities (such as designing, engineering, location surveying, mapping, acquiring rights-of-way) and related relocation costs, environmental studies, and all work necessary for FRA to approve the project under the National Environmental Policy Act; highway-rail grade crossing improvements; communication and signalization improvements; and rehabilitating, remanufacturing or

overhauling rail rolling stock and rail facilities.¹

c. “Construction” means the production of fixed works and structures or substantial alterations to such structures or land and associated costs.

d. “Enforcement Activities” means investigating compliance with, and enforcing, rail trespass-related laws.

e. “Final Design (FD)” means design activities following Preliminary Engineering, and at a minimum, includes the preparation of final Construction plans, detailed specifications, and estimates sufficiently detailed to inform project stakeholders (designers, reviewers, contractors, suppliers, etc.) of the actions required to advance the project from design through completion of Construction.

f. “Hot Spot” means a location along the railroad right-of-way where the risk of trespassing or collision as a result of trespassing is high.

g. “Improvement” means repair or enhancement to existing rail infrastructure, or construction of new rail infrastructure, that results in efficiency of the rail system and the safety of those affected by the system.

h. “Intercity Rail Passenger Transportation” means rail passenger transportation, except commuter rail passenger transportation. See 49 U.S.C. 22901(3). In this notice, “Intercity Passenger Rail Service” and “Intercity Passenger Rail Transportation” are equivalent terms to “Intercity Rail Passenger Transportation.”

i. “National Environmental Policy Act (NEPA)” is a Federal law that requires Federal agencies to analyze and document the environmental impacts of a proposed action in consultation with appropriate Federal, state, and local authorities, and with the public. NEPA classes of action include an Environmental Impact Statement (EIS), Environmental Analysis (EA) or Categorical Exclusion (CE). The NEPA class of action depends on the nature of the proposed action, its complexity, and the potential impacts. For purposes of this NOFO, NEPA also includes all related Federal laws and regulations including the Clean Air Act, Section 4(f) of the Department of Transportation Act, Section 7 of the Endangered Species Act, and Section 106 of the National Historic Preservation Act. Additional information regarding FRA’s

¹For any project that includes purchasing Intercity Passenger Rail rolling stock, applicants are encouraged to use a standardized approach to the procurement of passenger rail equipment, such as the specifications developed by the Next Generation Corridor Equipment Pool Committee or a similar uniform process.

environmental processes and requirements are located at <https://www.fra.dot.gov/environment>.

j. “Outreach Campaign” means any coordinated effort to reach a specific population, in the case of railroad trespassing suicide prevention programs, those who are experiencing or who may experience suicidal thoughts, with the goal of providing assistance. The assistance provided through the Outreach Campaign may take many forms, including but not limited to, advertising of services, identifying and approaching individuals in need, or other methods to recognize the signs of an individual in crisis to prevent suicide.

k. “Planning” means activities that support the development of a state or regional rail plan or a corridor service development plan. Project-specific (e.g., rail station or port improvements) planning is not eligible.

l. “Positive Train Control (PTC) system” is defined by 49 CFR 270.5 to mean a system designed to prevent train-to-train collisions, overspeed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position, as described in 49 CFR part 236, subpart I.

m. “Preliminary Engineering (PE)” means engineering design to: (1) Define a project, including identification of all environmental impacts, design of all critical project elements at a level sufficient to assure reliable cost estimates and schedules, (2) complete project management and financial plans, and (3) identify procurement requirements and strategies. The PE development process starts with specific project design alternatives that allow for the assessment of a range of rail improvements, specific alignments, and project designs. PE generally occurs concurrently with NEPA and related analyses, and prior to FD and Construction.

n. “Relocation” is defined to mean moving a rail line vertically or laterally to a new location. Vertical Relocation refers to raising above the current ground level or sinking below the current ground level of a rail line. Lateral Relocation refers to moving a rail line horizontally to a new location.

o. “Rural Project” means a project in which all or the majority of the project (determined by the geographic location or locations where the majority of the project funds will be spent) is located in a Rural Area.

p. “Rural Area” is defined in 49 U.S.C. 22907(g)(2) to mean any area not in an urbanized area as defined by the Census Bureau. The Census Bureau

defines Urbanized Area (UA) as an area with a population of 50,000 or more people.² Updated lists of UAs as defined by the Census Bureau are available on the Census Bureau website at http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/.

B. Federal Award Information

1. Available Award Amount

The total funding available for awards under this NOFO is \$361,978,796. Should additional funds become available after the release of this NOFO, FRA may elect to award such additional funds to applications received under this NOFO.³

Further, certain funding amounts are set-aside for the following purposes under this NOFO:

a. Rural Set-Aside—At least 25 percent of the CRISI funding, or \$93,750,000 will be made available for Rural Projects as required by 49 U.S.C. 22907(g);

b. Intercity Passenger Rail Set-Aside—Not less than \$75 million of the CRISI funding will be made available for projects eligible under 49 U.S.C. 22907(c)(2) that support the development of new intercity passenger rail service routes including alignments for existing routes; and

c. Capital Improvements for Trespass Prevention—Not less than \$25 million of the CRISI funding will be made available for Capital Projects and engineering solutions targeting trespassing.

d. Railroad Trespassing Enforcement Activities—\$2,034,296 in Non-CRISI Funding will be made available for grants supporting Enforcement Activities at Hot Spots within their respective jurisdictions or at areas that demonstrate a rail trespassing problem in their community on FRA-regulated track. This grant funding is limited to hourly wages for law enforcement officials.

e. Railroad Trespassing Suicide Prevention—\$207,000 in Non-CRISI Funding will be made available for grants to help implement FRA's Trespasser Prevention Strategy through grants funding the implementation or expansion of targeted Outreach Campaigns to reduce the number of railroad-related suicides that involve

railroad trespassing on FRA-regulated track.⁴

2. Award Size

There are no predetermined minimum or maximum dollar thresholds for CRISI awards. For Non-CRISI funding, the maximum award for railroad trespass law enforcement grants will be capped at \$120,000, and the maximum award for railroad trespass suicide prevention grants will be capped at \$100,000. FRA anticipates making multiple awards with the available funding. FRA may not be able to award grants to all eligible applications even if they meet or exceed the stated evaluation criteria (see *Section E*, Application Review Information). Projects may require more funding than is available. FRA encourages applicants to propose projects or components of projects that have operational independence and that can be completed and implemented with funding under this NOFO as a part of the total project cost together with other, non-Federal sources.

3. Award Type

FRA will make awards for projects selected under this notice through grant agreements and/or cooperative agreements. Grant agreements are used when FRA does not expect to have substantial Federal involvement in carrying out the funded activity. Cooperative agreements allow for substantial Federal involvement in carrying out the agreed upon investment, including technical assistance, review of interim work products, and increased program oversight. The funding provided under this NOFO will be made available to grantees on a reimbursable basis. Applicants must certify that their expenditures are allowable, allocable, reasonable, and necessary to the approved project before seeking reimbursement from FRA. Additionally, the grantee is expected to expend matching funds at the required percentage concurrent with Federal funds throughout the life of the project. See an example of standard terms and conditions for FRA grant awards at:

⁴ FRA made Safety and Operations Account funding available in FY 2019 and FY 2020 under separate NOFOs for the Railroad Trespassing Enforcement Grant Program and the Railroad Trespassing Suicide Prevention Grant Program, as part of its National Trespass Prevention Strategy. FRA is combining Non-CRISI funds for those trespass prevention programs into the CRISI NOFO to leverage Federal funding to comprehensively address trespassing safety issues through awards for infrastructure investment combined with safety programs including enforcement and outreach activities. If funding is not requested under B.1(d) or (e), FRA may award such funds for other eligible trespass prevention purposes.

<https://www.fra.dot.gov/eLib/Details/L19057>. This template is subject to revision.

4. Concurrent Applications

DOT and FRA may be concurrently soliciting applications for transportation infrastructure projects for several financial assistance programs. Applicants may submit applications requesting funding for a particular project to one or more of these programs. In the application for funding under this NOFO, applicants must indicate the other programs and, if applicable, the other CRISI or trespass prevention NOFOs to which they submitted or plan to submit an application for funding the entire project or certain project components, as well as highlight new or revised information in the application responsive to this NOFO that differs from the previously submitted application(s).

C. Eligibility Information

This section of the notice explains applicant eligibility, cost sharing and matching requirements, project eligibility, and project component operational independence. Applications that do not meet the requirements in this section will be ineligible for funding. Instructions for submitting eligibility information to FRA are detailed in *Section D* of this NOFO.

1. Eligible Applicants

The following entities are eligible applicants under this notice:

- A State;
- A group of States;
- An Interstate Compact;⁵
- A public agency or publicly chartered authority established by one or more States;⁶
- A political subdivision of a State;
- Amtrak or another rail carrier that provides Intercity Rail Passenger Transportation (as defined in 49 U.S.C. 24102);
- A Class II railroad or Class III railroad (as those terms are defined in 49 U.S.C. 20102) or a holding company of a Class II or III railroad;⁷
- Any rail carrier or rail equipment manufacturer in partnership with at least one of the entities described in paragraph (a) through (e);⁸

⁵ Interstate Compacts are ineligible for Non-CRISI funding.

⁶ See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

⁷ See Section D(2)(a)(iv) for supporting documentation required to demonstrate eligibility under this eligibility category.

⁸ See Section D(2)(a)(iv) for supporting information required to demonstrate eligibility under this eligibility category.

² See 74 FR 53030, 53043 (August 24, 2011) available at <https://www2.census.gov/geo/pdfs/reference/fedreg/fedregv76n164.pdf>.

³ Of the \$375,000,000 in CRISI funding made available in the 2021 Appropriation, \$11,512,500 will be separately made available for Special Transportation Circumstances and \$3,750,000 will be set aside for award and program oversight.

i. The Transportation Research Board together with any entity with which it contracts in the development of rail-related research, including cooperative research programs;

j. A University transportation center engaged in rail-related research; or

k. A non-profit labor organization representing a class or craft of employees of rail carriers or rail carrier contractors.

Applications must identify an eligible applicant as the lead applicant. The lead applicant serves as the primary point of contact for the application, and if selected, as the grantee. Eligible applicants may reference entities that are not eligible applicants in an application as a project partner.

2. Cost Sharing or Matching

The Federal share of total costs for CRISI projects funded under this notice will not exceed 80 percent, though FRA will provide selection preference to applications where the proposed Federal share of total project costs is 50 percent or less. For Non-CRISI funding, the Federal share of total project costs can be up to 100 percent. The estimated total cost of a project must be based on the best available information, including engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment and/or facilities.

Additionally, and to the extent practicable, in preparing estimates of total project costs, applicants may refer to FRA's cost estimate guidance documentation, "Capital Cost Estimating: Guidance for Project Sponsors," which is available at: <https://www.fra.dot.gov/Page/P0926>.

The minimum 20 percent non-Federal match for CRISI-funded projects may be composed of public sector (e.g., state or local) and/or private sector funding. FRA will not consider any Federal financial assistance⁹ nor any non-Federal funds already expended (or otherwise encumbered) toward the matching requirement, unless compliant with 2 CFR part 200. In-kind contributions, including the donation of services, materials, and equipment, may be credited as a project cost, in a uniform manner consistent with 2 CFR 200.306.

Amtrak or another rail carrier may use ticket and other non-Federal revenues generated from its operations and other sources as matching funds. Applicants must identify the source(s) of its matching and other funds, and must clearly and distinctly reflect these funds as part of the total project cost.

⁹ See Section D(2)(a)(iii) for supporting information required to demonstrate eligibility of Federal funds for use as match.

Before applying, applicants should carefully review the principles for cost sharing or matching in 2 CFR 200.306. See Section D(2)(a)(iii) for required application information on non-Federal match and Section E for further discussion of FRA's consideration of matching funds in the review and selection process. FRA will approve pre-award costs consistent with 2 CFR 200.458, as applicable. See Section D(6). Cost sharing or matching may be used only for authorized Federal award purposes.

3. Other

a. Project Eligibility

The following rail projects within the United States that improve the safety, efficiency, and/or reliability of passenger and/or freight rail transportation systems are eligible for funding under 49 U.S.C. 22907 and this NOFO.

i. Deployment of railroad safety technology, including positive train control and rail integrity inspection systems.¹⁰ PTC examples include: Back office systems; wayside, communications and onboard hardware equipment; software; equipment installation; spectrum; any component, testing and training for the implementation of PTC systems; and interoperability. Maintenance and operating expenses incurred after a PTC system is placed in revenue service are ineligible. Railroad safety technology and rail integrity inspection system examples include broken rail detection and warning systems; track intrusion systems; and hot box detectors, wheel impact load detectors, and other safety improvements.¹¹

ii. A capital project as defined in 49 U.S.C. 22901(2) relating to Intercity Passenger Rail Service, except that such projects are not required to be in a State rail plan under the CRISI Program. Examples include acquisition, improvement, or rehabilitation of railroad equipment (locomotives and rolling stock); railroad infrastructure (grade crossings, catenary, and signals); and rail facilities (yards, passenger stations, or maintenance and repair shops).

¹⁰ Pursuant to the 2021 Appropriation, 49 U.S.C. 22905(f) shall not apply to projects for the implementation of positive train control systems, otherwise eligible under 49 U.S.C. 22907(c)(1). "Maintenance and operations costs incurred after a PTC system is placed in revenue service are not eligible for CRISI funding. . . ." 166 Cong. Rec. H8820 (2020) (explanatory statement accompanying the 2021 Appropriation).

¹¹ Only costs for FD and Construction project stages and forward are eligible within this project eligibility category.

iii. A Capital Project necessary to address congestion challenges affecting rail service. Examples include projects addressing congestion that increase rail capacity; add or upgrade the condition, clearances, and capacity of rail mainlines; enhance capacity and service with less conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

iv. A Capital Project necessary to reduce congestion and facilitate ridership growth in Intercity Passenger Rail Transportation along heavily traveled rail corridors. Examples include projects addressing congestion that improve stations; increase rail capacity; reduce conflict between freight and Intercity Passenger Rail; reduce delays and risks associated with highway-rail grade crossings; and provide more effective rail equipment.

v. A highway-rail grade crossing improvement project, including installation, repair, or improvement of grade separations, railroad crossing signals, gates, and related technologies; highway traffic signalization; highway lighting and crossing approach signage; roadway improvements such as medians or other barriers; railroad crossing panels and surfaces; and safety engineering improvements to reduce risk in quiet zones or potential quiet zones.

vi. A rail line Relocation and Improvement project. Examples include projects that: Improve the route or structure of a rail line by replacing degraded track; enhance/relocate railroad switching operations; add or lengthen passing tracks to increase capacity; improve interlockings; and relocate rail lines to alleviate congestion, and eliminate frequent rail service interruptions.

vii. A Capital Project to improve short-line or regional railroad infrastructure. Examples include projects for normalized capital replacement, increasing capacity, as well as replacing aging locomotive fleets with newer, more energy efficient technologies that produce less harmful emissions.

viii. The preparation of regional rail and corridor service development plans and corresponding environmental analyses. (See the examples under Track 1 and 2 below in Subsections C(3)(b)(i)-(ii) as they apply to regional and corridor rail Planning).

ix. A project necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between Intercity Rail Passenger Transportation

and intercity bus service or commercial air service. Examples include intermodal transportation facilities projects that encourage joint scheduling, ticketing, and/or baggage handling; freight rail intermodal connections; and rail projects improving access to ports.

x. The development and implementation of a safety program or institute designed to improve rail safety. Examples include employee training; payment of applicable law enforcement wages to undertake trespass Enforcement Activities;¹² Outreach Campaigns for reducing suicides that involve railroad trespassing;¹³ and public safety outreach and education.

xi. Any research that the Secretary considers necessary to advance any particular aspect of rail related capital, operations, or safety improvements.

xii. Workforce development and training activities, coordinated to the extent practicable with the existing local training programs supported by the Department of Transportation, the Department of Labor, and the Department of Education.

Applicants that intend to charge indirect costs through the use of a negotiated indirect cost rate must have a current, signed, Federally-approved indirect cost rate agreement. Applicants that do not have a current Federally-approved indirect cost rate may elect to charge a *de minimis* rate of 10 percent of modified total direct costs. This includes state and local governments that have never negotiated an indirect cost rate with the federal government and receive less than \$35 million in direct federal funding per year.

Organizations that wish to negotiate an

indirect cost rate should contact FRA's Office of the Chief Financial Officer at FRA.CFO@dot.gov. Sub-recipients may charge indirect costs using their federally-approved indirect cost rate, a negotiated indirect cost rate between the pass-through entity and the sub-recipient, or a *de minimis* rate of 10 percent.

As a condition to making a grant with CRISI Funding under this NOFO, FRA requires that a written agreement exist between the applicant and the railroad regarding use and ownership consistent with 49 U.S.C. 22905(c)(1) for projects using rights-of-way owned by a railroad that is not the applicant.

b. Project Tracks for Eligible Projects

Applicants are not limited in the number of projects for which they seek funding. FRA will not limit eligible projects from consideration for funding for planning, environmental, engineering, design, and construction elements of the same project in the same application. Applicants are allowed to include multiple phases of a project in the same application. However, depending on the project, applications for multiple phases of project development may not contain sufficient detail with regards to scope, schedule, or budget for all phases of the application to compete well in the application review process.¹⁴

An applicant must identify one or more of the following four tracks for an eligible project: Track 1—Planning; Track 2—PE/NEPA; Track 3—FD/Construction; or Track 4—Research, Safety Programs and Institutes.

i. Track 1—Planning

Track 1 consists of eligible rail Planning projects. Examples include the technical analyses and associated environmental analyses that support the development of state rail plans, regional rail plans, and corridor service development plans, including: Identification of alternatives, rail network Planning, market analysis, travel demand forecasting, revenue forecasting, railroad system design, railroad operations analysis and simulation, equipment fleet Planning, station and access analysis, conceptual engineering and capital programming,

¹⁴ The scope, schedule, and budget necessary to implement a project, as well as the definition of the project's potential benefits, are typically informed by the work conducted in prior phases of project development (e.g., the specific elements of an FD/Construction project and their cost estimates are developed and refined through PE). The evaluation criteria for the CRISI program (see Section E of this NOFO) considers the level of detail contained in the applicant's proposed scope of work and readiness for the project to be implemented.

operating and maintenance cost forecasting, capital replacement and renewal analysis, and economic analysis. Project-specific (e.g., rail station or port improvements) planning is not an eligible Track 1 project.

ii. Track 2—PE/NEPA

Track 2 consists of eligible PE/NEPA projects. PE examples include: PE drawings and specifications (scale drawings at the 30 percent design level, including track geometry as appropriate); design criteria, schematics and/or track charts that support the development of PE; and work that can be funded in conjunction with developing PE, such as operations modeling, surveying, project work/management plans, preliminary cost estimates, and preliminary project schedules. PE/NEPA projects funded under this NOFO must be sufficiently developed to support FD or Construction activities.

iii. Track 3—FD/Construction

Track 3 consists of eligible projects for FD, Construction, and project implementation and deployment activities. Applicants must complete all necessary Planning, PE and NEPA requirements for FD/Construction projects. FD funded under this track must resolve remaining uncertainties or risks associated with changes to design scope; address procurement processes; and update and refine plans for financing the project or program to reflect accurately the expected year-of-expenditure costs and cash flow projections. Applicants selected for funding for FD/Construction must demonstrate the following to FRA's satisfaction:

(A) PE is completed for the proposed project, resulting in project designs that are reasonably expected to conform to all regulatory, safety, security, and other design requirements, including those under the Americans with Disabilities Act (ADA);

(B) NEPA is completed for the proposed project;

(C) Signed agreements with key project partners, including infrastructure-owning entities; and

(D) A project management plan is in place for managing the implementation of the proposed project, including the management and mitigation of project risks.

FD examples include drawings at the 100 percent Design Level, interim design drawings that support development (e.g., drawings at the 60 percent Design Level), project work/project management plan, cost estimates, project schedules, and right-

¹² Enforcement Activities may include investigating incidents or reports of trespassing, as well as providing warnings and citations to the trespassers for violating rail-related trespass laws. The hourly rate for law enforcement officers performing Enforcement Activities should be limited to the officer's regular and overtime wage rate (e.g., 1.5 times the base rate). Administrative costs are capped at 1% of the award. Projects must be completed within the twelve-month period of performance under the grant.

Court costs and equipment are not eligible. Only new scope (e.g., hourly wages incurred during the project performance period for a grant awarded under this NOFO) is eligible for funding under this NOFO.

¹³ The implementation or expansion of an Outreach Campaign for reducing suicides that involve railroad trespassing may involve training staff to identify individuals at risk and intervene, raising awareness of services via signage or public awareness campaigns, or implementing other strategies. Projects must be specifically tailored to directly reduce railroad suicide incidents. While an Outreach Campaign may have applicability outside of the rail domain, projects must be intended to directly reduce railroad suicide incidents. At least 1 mile of FRA-regulated railroad track must be within the boundaries of the planned outreach activities.

of-way acquisition and relocation plans. Construction examples include additions, improvements, replacements, renovations and/or repairs to track, bridge, station, rail yard, signal, and communication system infrastructure, or other railroad safety technology.

iv. Track 4—Research, Safety Programs and Institutes (Non-Railroad Infrastructure)

Track 4 consists of projects not falling within Tracks 1–3 including workforce development activities, research, safety programs or institutes designed to improve rail safety that clearly demonstrate the expected positive impact on rail safety. Sufficient detail must be provided on what the project will accomplish, as well as the applicant’s capability to achieve the proposed outcomes. Examples include initiatives for improving rail safety, training, payment of applicable law enforcement wages to undertake trespass Enforcement Activities, Outreach Campaigns for reducing suicides that involve railroad trespassing, and education.

c. Project Component Operational Independence

If an applicant requests funding for a project that is a component or set of components of a larger project, the project component(s) must be attainable with the award amount, together with other funds as necessary, obtain operational independence, and must comply with all eligibility requirements described in Section C.

In addition, the component(s) must be capable of being independently analyzed, as determined by FRA, under NEPA (i.e., have independent utility, connect logical termini, if applicable, and not restrict the consideration of alternatives for other reasonably foreseeable rail projects).

d. Rural Project

FRA will consider a project to be in a Rural Area if all or the majority of the project (determined by geographic location(s) where the majority of the project funds will be spent) is located in a Rural Area. However, in the event FRA elects to fund a component of the

project, then FRA will reexamine whether the project is in a Rural Area.

D. Application and Submission Information

Required documents for the application are outlined in the following paragraphs. Applicants must complete and submit all components of the application. See Section D(2) for the application checklist. FRA welcomes the submission of additional relevant supporting documentation, such as planning, engineering and design documentation, and letters of support from partnering organizations, all of which will not count against the Project Narrative 25-page limit.

1. Address To Request Application Package

Applicants may access the application through www.grants.gov. Applicants must submit all application materials in their entirety through www.Grants.gov no later than 5:00 p.m. ET, on November 29, 2021. FRA reserves the right to modify this deadline. General information for submitting applications through Grants.gov can be found at: https://www.fra.dot.gov/Page/P0270. FRA is committed to ensuring that information is available in appropriate alternative formats to meet the requirements of persons who have a disability. If you require an alternative version of files provided, please contact Lou Lorello, Office of the Chief Financial Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W36–111, Washington, DC 20590; email: lou.lorello@dot.gov; phone: 202–493–8026.

2. Content and Form of Application Submission

FRA strongly advises applicants to read this section carefully. Applicants must submit all required information and components of the application package to be considered for funding.

Required documents for an application package are outlined in the checklist below.

- i. Project Narrative (see D.2.a)
ii. Statement of Work (see D.2.b.i)
iii. Benefit-Cost Analysis (see D.2. b.ii)
iv. SF424—Application for Federal Assistance

- v. Either: SF 424A—Budget Information for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424C—Budget Information for Construction (required for any application that includes Track 3)
vi. Either: SF 424B—Assurances for Non-Construction projects (required for Tracks 1, 2 and 4) or SF 424D—Assurances for Construction (required for any application that includes Track 3)
vii. FRA’s Additional Assurances and Certifications
viii. SF LLL—Disclosure of Lobbying Activities
a. Project Narrative

This section describes the minimum content required in the Project Narrative of the grant application. The Project Narrative must follow the basic outline below to address the program requirements and assist evaluators in locating relevant information.

- I. Cover Page See D.2.a.i
II. Project Summary See D.2.a.ii
III. Project Funding See D.2.a.iii
IV. Applicant Eligibility ... See D.2.a.iv
V. Project Eligibility See D.2.a.v
VI. Detailed Project Description. See D.2.a.vi
VII. Project Location See D.2.a.vii
VIII. Evaluation and Selection Criteria. See D.2.a.viii
IX. Project Implementation and Management. See D.2.a.ix
X. Planning Readiness See D.2.a.x
XI. Environmental Readiness. See D.2.a.xi

The above content must be provided in a narrative statement submitted by the applicant. The Project Narrative may not exceed 25 pages in length (excluding cover pages, table of contents, and supporting documentation). FRA will not review or consider Project Narratives beyond the 25-page limitation. If possible, applicants should submit supporting documents via website links rather than hard copies. If supporting documents are submitted, applicants must clearly identify the page number(s) of the relevant portion in the Project Narrative supporting documentation. The Project Narrative must adhere to the following outline.

- i. Cover Page: Include a cover page that lists the following elements in a table:

Table with 2 columns: Question/Field and Answer/Value. Includes fields for Project Title, Applicant, Project Track, Was a Federal grant application previously submitted for this project?, If yes, state the name of the Federal grant program and title of the project in the previous application, Is this a Rural Project? What percentage of the project cost is based in a Rural Area?, and Percentage of total project cost.

Is this a project eligible under 49 U.S.C. 22907(c)(2) that supports the development of new intercity passenger rail service routes including alignments for existing routes?	Yes/No.
Is this for a Capital Project or engineering solution targeting trespassing?	Yes/No.
Is this for a safety program to reduce trespassing through targeted law Enforcement Activities?	Yes/No.
Is this for a safety program to implement or expand an Outreach Campaign for reducing railroad trespassing suicide?	Yes/No.
City(ies), State(s) where the project is located	
Urbanized Area where the project is located	
Population of Urbanized Area	
Is the project currently programmed in the:	Yes/No (If yes, please specify in which plans the project is currently programmed).
State rail plan, State Freight Plan, TIP, STIP, MPO Long Range Transportation Plan, State Long Range Transportation Plan?	

ii. *Project Summary:* Provide a brief 4–6 sentence summary of the proposed project and what the project will entail. Include challenges the proposed project aims to address, and summarize the intended outcomes and anticipated benefits that will result from the proposed project.

iii. *Project Funding:* Indicate in table format the amount of Federal funding requested, the proposed non-Federal match, identifying contributions from the private sector if applicable, and total project cost. Describe the non-Federal funding arrangement, including multiple sources of non-Federal funding

if applicable. Include funding commitment letters outlining funding agreements, as attachments or in an appendix. If Federal funding is proposed as match, provide the applicant’s determination of eligibility for such use and the legal basis for that determination. Identify any specific project components that the applicant proposes for partial project funding. If all or a majority of a project is located in a Rural Area, identify the Rural Area(s) and estimated percentage of project costs that will be spent in the Rural Area. Identify any previously incurred costs, as well as other sources

of Federal funds committed to the project and any pending Federal requests. Also, note if the requested Federal funding under this NOFO or other programs must be obligated or spent by a certain date due to dependencies or relationships with other Federal or non-Federal funding sources, related projects, law, or other factors. If applicable, provide the description and estimated value of any proposed in-kind contributions, and demonstrate how the in-kind contributions meet the requirements in 2 CFR 200.306.

Example Project Funding Table:

Task #	Task name/project component	Cost	Percentage of total cost
1			
2			
Total Project Cost			
Federal Funds Received from Previous Grant			
Federal Funding Under this NOFO Request			
Non-Federal Funding/Match		Cash: In-Kind:	
Portion of Non-Federal Funding from the Private Sector			
Portion of Total Project Costs Spent in a Rural Area			
Pending Federal Funding Requests			

iv. *Applicant Eligibility:* Explain how the applicant meets the applicant eligibility criteria outlined in Section C of this notice. For public agencies and publicly chartered authorities established by one or more states, the explanation must include citations to the applicable enabling legislation.

If the applicant is eligible under 49 U.S.C. 22907(b)(8) as a rail carrier or rail equipment manufacturer in partnership with at least one of the other eligible entities, the applicant should explain the partnership and each entity’s contribution to the partnership. For a holding company of a class II or Class III railroad, the applicant must demonstrate its status as a holding

company and percentage of ownership of an operating Class II or III railroad with supporting documentation.

v. *Project Eligibility:* Identify which project eligibility category the project is eligible under in Section C(3) of this notice, and explain how the project meets the project eligibility criteria.

vi. *Detailed Project Description:* Include a detailed project description that expands upon the brief project summary. This detailed description should provide, at a minimum, background on the challenges the project aims to address; the expected users and beneficiaries of the project, including all railroad operators; the specific components and elements of

the project; and any other information the applicant deems necessary to justify the proposed project. If applicable, explain how the project will benefit communities in Rural Areas. An applicant should specify whether it is seeking funding for a project that has already received Federal financial assistance, and if applicable, explain how the new scope proposed to be funded under this NOFO relates to the previous scope.

For all projects, applicants must provide information about proposed performance measures, as discussed in Section F(3)(c) and required in 2 CFR 200.301 and 49 U.S.C. 22907(f).

(A) Grade crossing information, if applicable: For any project that includes grade crossing components, cite specific DOT National Grade Crossing Inventory information, including the railroad that owns the infrastructure (or the crossing owner, if different from the railroad), the primary railroad operator, the DOT crossing inventory number, and the roadway at the crossing. Applicants can search for data to meet this requirement at the following link: <http://safetydata.fra.dot.gov/OfficeofSafety/default.aspx>. In addition, if applicable, applicants must cite the page number in the grade crossing action plan where the grade crossing is referenced.

(B) Heavily traveled rail corridor information, if applicable: For any project eligible under the eligibility category in *Subsection C(3)(a)(iv)*, that reduces congestion and facilitates ridership growth in Intercity Passenger Rail Transportation, describe how the project is located on a heavily traveled rail corridor.

(C) PTC information, if applicable: For any project that includes deploying PTC systems, applicants must:

1. Document submission of a Positive Train Control Implementation Plan (PTCIP) to FRA pursuant to either *49 U.S.C. 20157(a)* or *49 CFR part 236, subpart I* (FRA's PTC regulations);
2. Document that it is a tenant on one or more host railroads that submitted a PTCIP to FRA; or
3. Document how the proposed project will assist in the deployment (*i.e.*, installation and/or full implementation) of a PTC system.

(D) Workforce development and training information, if applicable: For any project that includes workforce development, applicants must document to the extent practicable similar existing local training programs supported by the Department of Transportation, the Department of Labor, and/or the Department of Education.

(E) Pedestrian trespasser casualty information, if applicable: Provide documentation indicating whether the projects are located in counties with the most pedestrian trespasser casualties as identified in *FRA's National Strategy to Prevent Trespassing on Railroad Property*.

(F) Railroad trespassing law enforcement strategies, if applicable: For law enforcement agencies seeking funding to pay law enforcement wages to undertake trespass Enforcement Activities, applicants must provide a detailed description of the proposed Enforcement Activities, including (but not limited to) data on trespass incidents and casualties, strategies to

target Hot Spots identified by geospatial data, and expected reductions in trespass incidents stemming from the Enforcement Activities.

(G) Railroad trespassing suicide prevention outreach campaign, if applicable: For any project seeking to implement an Outreach Campaign to reduce suicide by railroad, applicants must provide a detailed description of the proposed outreach campaign, including (but not limited to) relevant data on rail-related suicides in the project location, the manner and extent to which trespass suicide is expected to be reduced, and examples of prior efforts to address rail-related suicide.

vii. *Project Location*: Include geospatial data for the project, as well as a map of the project's location. On the map, include the Congressional districts and Rural Area boundaries, if applicable, in which the project will take place. For projects (other than those projects for the implementation of positive train control systems otherwise eligible under *49 U.S.C. 22907(c)(1)*) that are on a shared corridor.

viii. *Evaluation and Selection Criteria*: Include a thorough discussion of how the proposed project meets all the evaluation criteria and selection criteria, as outlined in *Section E* of this notice. If an application does not sufficiently address the evaluation and selection criteria, it is unlikely to be a competitive application. For projects (other than those projects for the implementation of positive train control systems otherwise eligible under *49 U.S.C. 22907(c)(1)*) that are on a shared corridor with commuter railroad passenger transportation, demonstrate how funding the proposed project would be a reasonable investment in Intercity Passenger Rail Transportation and/or freight rail transportation.

ix. *Project Implementation and Management*: Describe proposed project implementation and project management arrangements. Include descriptions of the expected arrangements for project contracting, contract oversight and control, change-order management, risk management, and conformance to Federal requirements for project progress reporting (see <https://www.fra.dot.gov/Page/P0274>). Describe past experience in managing and overseeing similar projects.

x. *Planning Readiness for Tracks 2 and 3 (PE/NEPA and FD/Construction Projects)*: Provide information about the planning process that analyzed the investment needs and service objectives of the project. If applicable, cite sources of this information from a service development plan, State or regional rail

plan, or similar planning document where the project has been identified for solving a specific existing transportation problem, and makes the case for investing in the proposed solution.

xi. *Environmental Readiness for Track 3 FD/Construction Projects*: If the NEPA process is complete, an applicant should indicate the date of completion, and provide a website link or other reference to the documents demonstrating compliance with NEPA, which might include a final CE, Finding of No Significant Impact, or Record of Decision. If the NEPA process is not yet underway, the application should state this. If the process is underway, but is not complete, the application should detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion of all NEPA and related milestones.

If the last agency action with respect to NEPA documents occurred more than three years before the application date, the applicant should describe why the project has been delayed and include a proposed approach for verifying, and if necessary, updating this information in accordance with applicable NEPA requirements.

b. Additional Application Elements

Applicants must submit:

i. A Statement of Work (SOW) addressing the scope, schedule, and budget for the proposed project if it were selected for award. The SOW must contain sufficient detail so FRA, and the applicant, can understand the expected outcomes of the proposed work to be performed and monitor progress toward completing project tasks and deliverables during a prospective grant's period of performance. Applicants must use FRA's standard SOW, schedule, and budget templates to be considered for award. The templates are located at <https://www.fra.dot.gov/Page/P0325>. When preparing the budget, the total cost of a project must be based on the best available information as indicated in cited references that include engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

ii. A Benefit-Cost Analysis (BCA), as an appendix to the Project Narrative for each project submitted by an applicant. The BCA must demonstrate in economic terms the merits of investing in the proposed project. The BCA for Track 2—PE/NEPA projects should be for the underlying project, not the PE/NEPA work itself. The project narrative should summarize the project's benefits.

Benefits may apply to existing and new rail users, as well as users of other modes of transportation. In some cases, benefits may be applied to populations in the general vicinity of the project area. Improvements to multimodal connections and shared-use rail corridors may benefit all users involved. Benefits may be quantified for savings in safety costs, reduced costs from disruption of service, maintenance costs, reduced travel time, emissions reductions, and increases in capacity or ability to offer new types of freight or passenger services. Applicants may also describe other categories of benefits that are difficult to quantify such as noise reduction, environmental impact mitigation, improved quality of life, or reliability of travel times. All benefits claimed for the project must be clearly tied to the expected outcomes of the project. Please refer to the Benefit-Cost Analysis Guidance for Discretionary Grant Programs prior to preparing a BCA at <https://www.transportation.gov/office-policy/transportation-policy/benefit-cost-analysis-guidance>. In addition, please also refer to the BCA FAQs on FRA's website for some rail specific examples of how to apply the BCA Guidance for Discretionary Grant Programs to CRISI funding.

For Tracks 1 and 4—Applicants are required to document project benefits. Any subjective estimates of benefits and costs should be quantified whenever possible, and applicants should provide appropriate evidence to support their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then a quantitative estimate (in physical, non-monetary terms, such as crash or employee casualty rates, ridership estimates, emissions levels, energy efficiency improvements, etc.) should be provided. At a minimum, qualitatively describe the project benefits.

iii. Environmental compliance documentation, as applicable, if a website link is not cited in the Project Narrative.

iv. SF 424—Application for Federal Assistance;

v. SF 424A—Budget Information for Non-Construction or SF 424C—Budget Information for Construction;

vi. SF 424B—Assurances for Non-Construction or SF 424D—Assurances for Construction;

vii. FRA's Additional Assurances and Certifications; and

viii. SF LLL—Disclosure of Lobbying Activities.

ix. A statement that the lead applicant has a system for procuring property and services under a Federal award under

this NOFO that supports the provisions in 2 CFR 200 Subpart D-Procurement Standards at 2 CFR 200.317–326 and 2 CFR 1201.317.

x. A statement indicating whether the applicant or any of its principals:

a. is presently suspended, debarred, voluntarily excluded, or disqualified;

b. has been convicted within the preceding three years of any of the offenses listed in 2 CFR 180.800(a); or had a civil judgment rendered against the organization or the individual for one of those offenses within that time period;

c. is presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with, commission of any of the offenses listed in 2 CFR 180.800(a); or,

d. has had one or more public transactions (Federal, state, or local) terminated within the preceding three years for cause or default (including material failure to comply).

xi. FRA F 251, Applicant Financial Capability Questionnaire.

Forms needed for the electronic application process are at www.Grants.gov.

c. Post-Selection Requirements

See *subsection F(2)* of this notice for post-selection requirements.

3. Unique Entity Identifier, and System for Award Management (SAM)

To apply for funding through *Grants.gov*, applicants must be properly registered in SAM before submitting an application, provide a valid unique entity identifier, and continue to maintain an active SAM registration all as described in detail below. Complete instructions on how to register and submit an application can be found at www.Grants.gov. Registering with *Grants.gov* is a one-time process; however, it can take up to several weeks for first-time registrants to receive confirmation and a user password. FRA recommends that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application package by the application deadline. Applications will not be accepted after the due date. Delayed registration is not an acceptable justification for an application extension.

FRA may not make a grant award to an applicant until the applicant has complied with all applicable Data Universal Numbering System (DUNS) and SAM requirements, and if an applicant has not fully complied with the requirements by the time the FRA is ready to make a Federal award, FRA may determine that the applicant is not

qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant. (Please note that if a Dun & Bradstreet DUNS number must be obtained or renewed, this may take a significant amount of time to complete). Late applications that are the result of a failure to register or comply with *Grants.gov* applicant requirements in a timely manner will not be considered. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through *Grants.gov*, applicants must:

a. Obtain a DUNS Number

A DUNS number is required for *Grants.gov* registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for the government in identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Applicants may obtain a DUNS number by calling 1–866–705–5711 or by applying online at <http://www.dnb.com/us>.

b. Register With the SAM at www.SAM.gov

All applicants for Federal financial assistance must maintain current registrations in the SAM database. An applicant must be registered in SAM to successfully register in *Grants.gov*. The SAM database is the repository for standard information about Federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via *Grants.gov* are already registered with SAM, as it is a requirement for *Grants.gov* registration. Please note, however, that applicants must update or renew their SAM registration at least once per year to maintain an active status. Therefore, it is critical to check registration status well in advance of the application deadline. If an applicant is selected for an award, the applicant must maintain an active SAM registration with current information throughout the period of the award, including information on a

recipient's immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or grant within the last three years, if applicable. Information about SAM registration procedures is available at www.sam.gov.

c. Create a Grants.gov Username and Password

Applicants must complete an Authorized Organization Representative (AOR) profile on www.Grants.gov and create a username and password. Applicants must use the organization's DUNS number to complete this step. Additional information about the registration process is available at: <https://www.grants.gov/web/grants/applicants/organization-registration.html>.

d. Acquire Authorization for Your AOR From the E-Business Point of Contact (E-Biz POC)

The E-Biz POC at the applicant's organization must respond to the registration email from [Grants.gov](http://www.Grants.gov) and login at www.Grants.gov to authorize the applicant as the AOR. Please note there can be more than one AOR for an organization.

e. Submit an Application Addressing All Requirements Outlined in This NOFO

If an applicant experiences difficulties at any point during this process, please call the [Grants.gov](http://www.Grants.gov) Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

4. Submission Dates and Times

Applicants must submit complete applications to www.Grants.gov no later than 5:00 p.m., ET, November 29, 2021. FRA reviews www.Grants.gov information on the dates and times of applications submitted to determine timeliness of submissions. Late applications will be neither reviewed nor considered. Delayed registration is not an acceptable reason for late submission. In order to apply for funding under this announcement, all applicants are expected to be registered as an organization with [Grants.gov](http://www.Grants.gov). Applicants are strongly encouraged to apply early to ensure all materials are received before this deadline.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1)

Failure to complete the [Grants.gov](http://www.Grants.gov) registration process before the deadline; (2) failure to follow [Grants.gov](http://www.Grants.gov) instructions on how to register and apply as posted on its website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant's computer or information technology environment.

5. Intergovernmental Review

Intergovernmental Review is required for this program. Applicants must contact their State Single Point of Contact to comply with their State's process under Executive Order 12372. The names and addresses of the Single State Points of Contact are listed in the Office of Management and Budget's website.

6. Funding Restrictions

FRA is prohibited under 49 U.S.C. 22905(f) from providing CRISI grants for commuter rail passenger transportation (as defined in 49 U.S.C. 24102(3)). FRA's interpretation of this restriction is informed by the language in 49 U.S.C. 22907. FRA's primary intent in funding passenger rail projects is to make reasonable investments in Intercity Passenger Rail Transportation. Such projects may be located on shared corridors where commuter rail passenger transportation and/or freight rail also benefit from the project. The 2021 Appropriation makes an exception to this funding restriction for commuter rail passenger transportation projects for the implementation of positive train control systems that are otherwise eligible under 49 U.S.C. 22907(c)(1).

Consistent with 2 CFR 200.458, as applicable, FRA will only approve pre-award costs if such costs are incurred pursuant to the negotiation and in anticipation of the grant agreement and if such costs are necessary for efficient and timely performance of the scope of work. Under 2 CFR 200.458, grantees must seek written approval from the administering agency for pre-award activities to be eligible for reimbursement under the grant. Activities initiated prior to the execution of a grant or without written approval may be ineligible for reimbursement or matching contribution. Cost sharing or matching may be used only for authorized Federal award purposes.

7. Other Submission Requirements

For any supporting application materials that an applicant cannot submit via [Grants.gov](http://www.Grants.gov), such as oversized engineering drawings, an applicant may submit an original and two (2) copies to

Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38-212, Washington, DC 20590. Due to delays caused by enhanced screening of mail delivered via the U.S. Postal Service, FRA advises applicants to use other means of conveyance (such as courier service) to assure timely receipt of materials before the application deadline. Additionally, if documents can be obtained online, providing instructions to FRA on how to access files on a referenced website may also be sufficient.

Note: Please use generally accepted formats such as .pdf, .doc, .docx, .xls, .xlsx and .ppt, when uploading attachments. While applicants may embed picture files, such as .jpg, .gif, and .bmp, in document files, applicants should not submit attachments in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

If an applicant experiences difficulties at any point during this process, please call the [Grants.gov](http://www.Grants.gov) Customer Center Hotline at 1-800-518-4726, 24 hours a day, 7 days a week (closed on Federal holidays). For information and instructions on each of these processes, please see instructions at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

E. Application Review Information

1. Criteria

a. Eligibility, Completeness and Applicant Risk Review

FRA will first screen each application for applicant and project eligibility (eligibility requirements are outlined in Section C of this notice), completeness (application documentation and submission requirements are outlined in Section D of this notice), applicant risk and the minimum match.

FRA will then consider applicant risk, including the applicant's past performance in developing and delivering similar projects and previous financial contributions, and if applicable, previous competitive grant technical evaluation ratings that the proposed project received under previous competitive grant programs administered by DOT.

b. Evaluation Criteria

FRA will evaluate all eligible and complete applications using the evaluation criteria outlined in this section to determine project benefits and technical merit.

i. Project Benefits:

FRA will evaluate the Benefit-Cost Analysis and project benefits of the proposed project for the anticipated private and public benefits relative to the costs of the proposed project and the summary of benefits provided in response to *subsection D(2)(b)(ii)* including—

(A) Effects on system and service performance;

(B) Effects on safety, competitiveness, reliability, trip or transit time, and resilience;

(C) Efficiencies from improved integration with other modes; and

(D) Ability to meet existing or anticipated demand.

ii. Technical Merit:

FRA will evaluate application information for the degree to which—

(A) The tasks and subtasks outlined in the SOW are appropriate to achieve the expected outcomes of the proposed project.

(B) Applications indicate strong project readiness and meet requirements under the project track(s) designated by the applicant.

(C) The technical qualifications and experience of key personnel proposed to lead and perform the technical efforts, and the qualifications of the primary and supporting organizations to fully and successfully execute the proposed project within the proposed timeframe and budget are demonstrated.

(D) The proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project.

(E) The applicant has, or will have the legal, financial, and technical capacity to carry out the proposed project; satisfactory continuing control over the use of the equipment or facilities; and the capability and willingness to maintain the equipment or facilities.

(F) The degree to which the applicant and project deploy innovative technology, encourage innovative approaches to project delivery, and incentivize the use of innovative financing.

(G) The proposed project is consistent with planning guidance and documents set forth by DOT, including those required by law or State rail plans developed under Title 49, United State Code, Chapter 227.

c. Selection Criteria

In addition to the eligibility and completeness review and the evaluation criteria outlined in this subsection, the FRA will apply the following selection criteria:

i. The FRA will give preference to the following:

(A) Projects for which the proposed Federal share of total project costs is 50 percent or less;

(B) Projects for which the net benefits of the grant funds will be maximized considering the Benefit-Cost Analysis, including anticipated private and public benefits relative to the costs of the proposed project, and factoring in the other considerations in *49 U.S.C. 22907* (e);

(C) Projects for pre-construction elements including preliminary engineering and final design of projects eligible under *49 U.S.C. 22907(c)(2)* that support the development of new intercity passenger rail service routes including alignments for existing routes;

(D) Projects for capital and engineering solutions targeting trespassing that are located in counties with the most pedestrian casualties as identified in *FRA's National Strategy to Prevent Trespassing on Railroad Property* as may be updated or amended from time to time; and

(E) Projects for trespass Enforcement Activities in one of the 10 states with the highest incidence of rail trespass related casualties (as reported in the Rail Incident Accident Reporting System at <https://railroads.dot.gov/accident-and-incident-reporting/casualty-reporting/casualties-and-other-incidents>), which are California, Texas, Illinois, Florida, New York, Pennsylvania, Ohio, Indiana, North Carolina, and Georgia.

ii. After applying the above preferences, the FRA will take into account the following key DOT objectives:

(A) Safety

DOT will assess the project's ability to foster a safe transportation system for the movement of goods and people, consistent with the Department's strategic goal to reduce transportation-related fatalities and serious injuries across the transportation system. Such considerations will include, but are not limited to, the extent to which the project improves safety at highway-rail grade crossings, reduces incidences of rail-related trespassing, and upgrades infrastructure to achieve a higher level of safety.

(B) Equitable Economic Strength and Improving Core Assets

DOT will assess the project's ability to contribute to economic progress stemming from infrastructure investment and associated creation of good jobs with fair wages, labor protections, and the opportunity to join a union. Such considerations will include, but are not limited to, the

extent to which the project invests in vital infrastructure assets, addresses capital needs to connect farms, factories, and shippers to the rail network, and provides opportunities for families to achieve economic security through rail industry employment.

(C) Ensuring Investments Meet Racial Equity and Economic Inclusion Goals

DOT will assess the project's ability to encourage racial equity by investing in projects that proactively address racial equity and barriers to opportunities. Such considerations will include, but are not limited to, the extent to which the project improves or expands transportation options, mitigates the safety risks and detrimental quality of life effects that rail lines can have on communities, and expands workforce development and training opportunities to foster a more diverse rail industry.

(D) Resilience and Addressing Climate Change

DOT will assess the project's ability to reduce the harmful effects of climate change and anticipate necessary improvements for preparedness. Such considerations will include, but are not limited to, the extent to which the project reduces emissions, promotes energy efficiency, increases resiliency, and recycles or redevelops existing infrastructure.

(E) Transformation of Our Nation's Transportation Infrastructure

DOT will assess the project's ability to expand and improve the nation's rail network, which needs to balance new infrastructure for increased capacity with proper maintenance of aging assets. Such considerations will include, but are not limited to, the extent to which the project adds capacity to congested corridors, builds new connections, and ensures assets will be improved to a state of good repair.

iii. In determining the allocation of program funds, FRA may also consider geographic diversity, diversity in the size of the systems receiving funding, and the applicant's receipt of other competitive awards.

2. Review and Selection Process

FRA will conduct a four-part application review process, as follows:

a. Screen applications for completeness, applicant risk and eligibility and consider applicable past performance and previous financial contributions and technical evaluation ratings;

b. Evaluate eligible applications (completed by technical panels applying the evaluation criteria);

c. Review, apply selection criteria and recommend initial selection of projects for the FRA Administrator's review (completed by a non-career Senior Review Team, which includes senior leadership from the Office of the Secretary and FRA); and,

d. Selection of awards for the Secretary's review and approval (completed by the FRA Administrator).

3. Reporting Matters Related to Integrity and Performance

Before making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold of \$250,000 (see 2 *CFR* 200.88 Simplified Acquisition Threshold), FRA will review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIS)). See 41 *U.S.C.* 2313.

An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.

FRA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 *CFR* 200.205.

F. Federal Award Administration Information

1. Federal Award Notice

FRA will announce applications selected for funding in a press release and on the FRA website after the application review period. This announcement is FRA's notification to successful and unsuccessful applicants alike. FRA will contact applicants with successful applications after announcement with information and instructions about the award process. This notification is not an authorization to begin proposed project activities. FRA requires satisfaction of applicable requirements by the applicant and a formal agreement signed by both the grantee and the FRA, including an approved scope, schedule, and budget, before obligating the grant.

For Track 2 PE/NEPA projects, these requirements may include transportation planning. For Track 3 FD/Construction projects, these requirements may include transportation planning, PE and environmental reviews.

2. Administrative and National Policy Requirements

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, grantees must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, nondiscrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of the Department of Transportation; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget. In complying with these requirements, grantees, in particular, must ensure that no concession agreements are denied, or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If the Department determines that a grantee has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and disallow previously incurred costs, requiring the grantee to reimburse any expended award funds.

Examples of administrative and national policy requirements include: 2 *CFR* part 200; procurement standards at 2 *CFR* part 200 Subpart D—Procurement Standards, 2 *CFR* 1207.317 and 2 *CFR* 200.401; compliance with Federal civil rights laws and regulations; requirements for disadvantaged business enterprises, debarment and suspension requirements, and drug-free workplace requirements; FRA's and OMB's Assurances and Certifications; Americans with Disabilities Act; safety requirements; NEPA; environmental justice requirements; performance measures under 49 *U.S.C.* 22907(f); for CRISI Funding, grant conditions under 49 *U.S.C.* 22905 including the Buy America requirements, applicable labor requirements, the provision deeming operators rail carriers for certain purposes and grantee agreements with railroad right-of-way owners for projects using railroad right-of way. Unless otherwise stated in statutory or legislative authority, or appropriations language, all financial assistance awards follow the Uniform Administrative Requirements, Cost Principles and

Audit Requirements for Federal Awards at 2 *CFR* part 200 and 2 *CFR* part 1201.

Grantees must comply with applicable appropriations act requirements and all relevant requirements of 2 *CFR* part 200. Rights to intangible property under grants awarded under this NOFO are governed in accordance with 2 *CFR* 200.315. See an example of standard terms and conditions for FRA grant awards at <https://www.fra.dot.gov/eLib/Details/L19057> and clauses specific to CRISI funding at <https://www.fra.dot.gov/eLib/Details/L20078>. These templates are subject to revision.

Projects selected under this NOFO for commuter rail passenger transportation for positive train control projects may be transferred to the Federal Transit Administration for grant administration at the Secretary's discretion. If such a project is transferred to the Federal Transit Administration, applicants will be required to comply with chapter 53 of Title 49 of the United States Code.

3. Reporting

a. Progress Reporting on Grant Activity

Each applicant selected for a grant will be required to comply with all standard FRA reporting requirements, including quarterly progress reports, quarterly Federal financial reports, and interim and final performance reports, as well as all applicable auditing, monitoring and close out requirements. Reports may be submitted electronically. Pursuant to 2 *CFR* 170.210, non-Federal entities applying under this NOFO must have the necessary processes and systems in place to comply with the reporting requirements should they receive Federal funding.

b. Additional Reporting

Applicants selected for funding are required to comply with all reporting requirements in the standard terms and conditions for FRA grant awards including 2 *CFR* 180.335 and 2 *CFR* 180.350.

If the Federal share of any Federal award under this NOFO may include more than \$500,000 over the period of performance, applicants are informed of the post award reporting requirements reflected in 2 *CFR* part 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters.

c. Performance Reporting

Each applicant selected for funding must collect information and report on the project's performance using measures mutually agreed upon by FRA

and the grantee to assess progress in achieving strategic goals and objectives.

Applicants requesting Non-CRISI funding for trespass Enforcement Activities must include the following information: Date, time, number of officers, location and description of Enforcement Activity; Justification or reason for selected Enforcement Activity; Number of contacts (encounters with trespassers); Number of warnings and/or citations issued; and

the deterrence effect of such activities and method for measuring such deterrence (including explanation of how they determine deterrence effect).

Applicants requesting Non-CRISI funding for an Outreach Campaign must include indicators of success (e.g. anticipated reach of messaging efforts or contacts made by personnel with individuals at risk or reduced suicide incidents). FRA maintains the right to

re-publish and use information under this grant for the advancement of safety.

Examples of some rail performance measures for CRISI Funding are listed in the table below. The applicable measure(s) will depend upon the type of project. Applicants requesting funding for the acquisition of rolling stock must integrate at least one equipment/rolling stock performance measure, consistent with the application materials and program goals.

Rail measures	Unit measured	Temporal	Primary strategic goal	Secondary strategic goal	Description
Slow Order Miles	Miles	Annual	State of Good Repair	Safety	The number of miles per year within the project area that have temporary speed restrictions ("slow orders") imposed due to track condition. This is an indicator of the overall condition of track. This measure can be used for projects to rehabilitate sections of a rail line since the rehabilitation should eliminate, or at least reduce the slow orders upon project completion.
Gross Ton	Gross Tons	Annual	Economic Competitiveness.	State of Good Repair	The annual gross tonnage of freight shipped in the project area. Gross tons include freight cargo minus tare weight of the rail cars. This measures the volume of freight a railroad ships in a year. This measure can be useful for projects that are anticipated to increase freight shipments.
Rail Track Grade Separation.	Count	Annual	Economic Competitiveness.	Safety	The number of annual automobile crossings that are eliminated at an at-grade crossing as a result of a new grade separation.
Passenger Counts ...	Count	Annual	Economic Competitiveness.	State of Good Repair	Count of the annual passenger boardings and alightings at stations within the project area.
Travel Time	Time/Trip	Annual	Economic Competitiveness.	Quality of Life	Point-to-point travel times between predetermined station stops within the project area. This measure demonstrates how track improvements and other upgrades improve operations on a rail line. It also helps make sure the railroad is maintaining the line after project completion.
Track Weight Capacity.	Yes/No	One Time	State of Good Repair	Economic Competitiveness.	If a project is upgrading a line to accommodate heavier rail cars (typically an increase from 263,000 lb. rail cars to 286,000 lb. rail cars.)
Track Miles	Miles	One Time	State of Good Repair	Economic Competitiveness.	The number of track miles that exist within the project area. This measure can be beneficial for projects building sidings or sections of additional main line track on a railroad.

H. Federal Awarding Agency Contacts

For further information regarding this notice and the grants program, please contact Mr. Douglas Gascon, Office of Policy and Planning, Federal Railroad Administration, 1200 New Jersey Avenue SE, Room W38-212, Washington, DC 20590; email: douglas.gascon@dot.gov; phone: 202-493-0239.

I. Other Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible.

If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1)

Note on the front cover that the submission "Contains Confidential Business Information (CBI)"; (2) mark each affected page "CBI"; and (3) highlight or otherwise denote the CBI portions.

The DOT regulations implementing the Freedom of Information Act (FOIA) are found at 49 CFR part 7 Subpart C—Availability of Reasonably Described Records under the Freedom of Information Act which sets forth rules

for FRA to make requested materials, information and, records publicly available under FOIA. Unless prohibited by law and to the extent permitted under the FOIA, contents of application and proposals submitted by successful applicants may be released in response to FOIA requests.

Issued in Washington, DC.

Amitabha Bose,

Deputy Administrator.

[FR Doc. 2021-18737 Filed 8-30-21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0117; Notice 2]

General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: General Motors, LLC (GM) has determined that certain model year (MY) 2016-2017 Cadillac CT6 motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. GM filed a noncompliance report dated October 26, 2016. GM also petitioned NHTSA on November 18, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

FOR FURTHER INFORMATION CONTACT: Leroy Angeles, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5304, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: GM has determined that certain MY 2016-2017 Cadillac CT6 motor vehicles do not fully comply with paragraph S7.8.13 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). GM filed a noncompliance report dated October 26, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. GM subsequently petitioned NHTSA on November 18, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 11, 2017, in the **Federal Register** (82 FR 17518), with a 30-day public comment period. One comment was received. To view the petition, all supporting documents, and any comments, log onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0117."

II. Vehicles Involved: Approximately 12,475 MY 2016-2017 Cadillac CT6 motor vehicles manufactured between September 4, 2015 and October 18, 2016 (the subject vehicles) are potentially involved.

III. Noncompliance: GM explains that the noncompliance is that the software in the subject vehicles' parking lamp's electronic control unit (ECU) was programmed incorrectly, causing the ECU to misinterpret the signals from the vehicle's body control module (BCM). This results in a higher than expected light output that may exceed the maximum values permitted in paragraph S7.8.13 of FMVSS No. 108. Specifically, the nine failed test points exceeded the maximum allowed value by 2.3% to 74.8%. Eight of the nine failed test points exceeded the maximum allowed value by 25% or more.

IV. Rule Requirements: Paragraph S7.8.13 of FMVSS No. 108, titled "Photometry" includes the requirements relevant to this petition: Each parking lamp must be designed to conform to the photometry requirements of Table XIV of paragraph S7.8.13, when tested according to the procedure of paragraph S14.2.1. Table XIV specifies various minimum and maximum photometric intensity requirements for parking lamps at specified test points.

V. Summary of GM's Petition:

GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM offers the following reasoning:

(a) The subject vehicles' parking lamp-headlamp combination does not exceed the maximum permitted glare values for headlamps specified in FMVSS No. 108:

GM states that NHTSA's August 2014 denial of Mercedes-Benz USA's petition for parking lamps that exceeded maximum photometric values, focused on a concern that the parking lamps could cause glare to oncoming drivers (79 FR 50733).

The subject vehicles will expose oncoming drivers to the combined photometric output of the parking lamps

and headlamps. GM claims that, when considering glare in real-world application, the critical issue is not the photometric output value of the parking lamp alone, but the performance of the parking lamp in conjunction with the headlamps. GM asserts that most appropriate way to assess this combined effect is to measure the parking lamp-headlamp combination at the traditional headlamp glare points (points above the horizon in the photometric beam pattern that limit light output in the path of oncoming drivers).

GM states that when two samples of the subject vehicles' parking lamp-headlamp combinations were evaluated in the laboratory against recognized glare points, the output fell below, or within, the acceptable value of headlamp glare points specified in FMVSS No. 108.

According to GM, it is possible for a vehicle to incorporate parking lamps and headlamps whose outputs are near, or at the maximum allowed values while remaining compliant. For headlamps, that output would be at or near the maximum specified photometric values, and for parking lamps that output would be at or near 125 candela (cd) at all test points above the horizon. According to GM, a parking lamp with this output value in close proximity to the headlamp at or near maximum output could create combined output with a glare value exceeding the maximum allowable headlamp photometric glare values by 125 cd. GM asserts that the combination would still be compliant, because the headlamp's glare measurement falls within the permitted values for the headlamp alone, and the parking lamp values correspond to the permitted values for parking lamps.

However, GM states that the parking lamp-headlamp combination in the subject vehicles are below the prescribed glare values for a compliant headlamp and well below the value of the theoretical combined parking lamp-headlamp output.

GM argues that the photometric output of the subject vehicles' parking lamps will not cause a glare that presents an unreasonable risk to the safety of oncoming drivers.

(b) GM's claim that the noncompliance has no impact on turn signal performance: GM recognizes previous statements by NHTSA that a parking lamp that exceeds the maximum permitted photometric values could mask the turn signal and thereby impair the turn signal performance (See 79 FR 50733). GM argues that because the parking lamps in the subject vehicles are optically combined with