



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 14, 2023

Mr. George Newman
Alaska Railroad

Mr. Chris Matthews
BNSF Railway

Mr. Brett Jury
Canadian National Railway

Mr. John Leonardo
Canadian Pacific Railway

Mr. Eric B. Levin
Consolidated Rail Corporation

Mr. Carl A. Walker
CSX Transportation, Inc.

Mr. John Leonardo
Kansas City Southern Railway

Mr. Bradley Peek
Kansas City Terminal Railway

Mr. Nicholas J. Croce
National Railroad Passenger Corporation

Mr. Dewey V. Cave
New Mexico Rail Runner Express

Mr. JaQuinton Braswell
Norfolk Southern Railway Company

Mr. Ryan Cashin
North County Transit District

Mr. Christopher M. Krakar
Northeast Illinois Regional Commuter Railroad

Mr. Derrick Wright
Northern Indiana Commuter Transportation District

Mr. Paul Smith
Peninsula Corridor Joint Powers Board

Mr. Aaron Parets
South Florida Regional Transportation Authority

Mr. Donald Filippi
Southern California Regional Rail Authority

Mr. Michael J. Dundas
Terminal Railroad Association of St. Louis

Mr. Greg Richardson
Union Pacific Railroad

Re: Nineteen Host Railroads' Joint Request to Amend Their Positive Train Control Safety Plans – Denial Without Prejudice (Docket Numbers FRA-2010-0028, -0029, -0039, -0042, -0043, -0045, -0048, -0049, -0051, -0054, -0056, -0057, -0058, -0059, -0060, -0061, -0064, -0065, and -0070)

Dear Messrs. Braswell, Cashin, Cave, Croce, Dundas, Filippi, Jury, Krakar, Leonardo, Levin, Matthews, Newman, Parets, Peek, Richardson, Smith, Walker, and Wright:

On June 28, 2023, nineteen host railroads¹ jointly submitted a request for amendment (RFA), Revision 1.0, to their current Positive Train Control Safety Plans (PTCSP) for their Interoperable Electronic Train Management Systems (I-ETMS). These railroads jointly submitted this RFA to the Federal Railroad Administration (FRA) pursuant to Title 49 Code of Federal Regulations (CFR) Section 236.1021, *Discontinuances, material modifications, and amendments*.

In their joint RFA, these host railroads describe the following proposed change they intend to make to their FRA-approved PTCSPs:

The railroads signatory to the RFA seek to use the alternative definition of “initial terminal” based on the definition provided in 49 CFR § 232.5. Using this definition, an “initial terminal” would be defined in each railroad’s PTCSP as “the location where a train is originally assembled.” Assembly of a train is defined under the heading Class I brake test-initial terminal inspection in 49 CFR § 232.205(a)(1) and 49 CFR § 238.313(b)(1) for freight and passenger/commuter trains, respectively. Currently, per 49 CFR § 236.1003(a), the definitions contained in subparts G and H of part 236 apply equally to subpart I, FRA’s PTC regulations. Subpart G, at 49 CFR § 236.829, defines an “initial terminal” as “The starting point of a locomotive for a trip.”

After careful consideration of the applicability and sufficiency of the RFA, FRA hereby denies without prejudice the nineteen railroads’ joint RFA, Revision 1.0, dated June 28, 2023, which requests to use an alternative definition of “initial terminal” instead of the default definition under subpart G at § 236.829, “*The starting point of a locomotive for a trip.*” See also 49 CFR § 236.1003(a).

Per 49 CFR § 236.1001(c) and (c)(2), a railroad is not exempt from compliance with any requirements of subparts A through H of part 236, including the definitions in subpart G, unless the applicable PTCSP, as defined under § 236.1003 and approved by FRA under § 236.1015, provides for such an exception per § 236.1013.

The railroads’ proposed alternative definition could result in an increase in the number of train miles operated without PTC protection. By adopting that definition, more scenarios could be considered *en route* failures subject to the operating restrictions at 49 CFR § 236.1029, instead of initialization failures, which generally impede continued operation. The RFA asserts, however, that “[b]ased on experience, the railroads signatory to this RFA believe that the amount of additional train miles that would be operated without PTC protection would be negligible.” The

¹ Alaska Railroad Corporation; BNSF Railway; Canadian National Railway; Canadian Pacific Railway; Consolidated Rail Corporation; CSX Transportation, Inc.; Kansas City Southern Railway; Kansas City Terminal Railway; National Railroad Passenger Corporation (Amtrak); New Mexico Rail Runner Express; Norfolk Southern Railway; North County Transit District (NCTD); Northeast Illinois Regional Commuter Railroad Corporation (Metra); Northern Indiana Commuter Transportation District; Peninsula Corridor Joint Powers Board (Caltrain); South Florida Regional Transportation Authority; Southern California Regional Rail Authority (Metrolink); Terminal Railroad Association of St. Louis; and Union Pacific Railroad.

RFA cites to the following BNSF Railway data: “As a representative example, BNSF trains ran approximately 125 million miles with PTC protection in 2022. Of those 125 million miles, approximately 1000 of those miles were operated by trains that, under the current definition of initial terminal, would not be allowed to proceed until the PTC system was repaired.”

The RFA observes that while this quantity may seem insignificant, “these rare occurrences can have cascading effects that result in a large impact on rail fluidity and the ability to promptly deliver necessary freight. This is because the moves impacted by this proposed definition typically happen at outlying facilities where additional locomotive power is not traditionally staged and would take an excessive time to reach.” The RFA also describes how utilizing the alternative definition would benefit passenger rail operations.

Based on FRA’s review of this RFA, dated June 28, 2023, FRA is denying without prejudice the host railroads’ pending RFA, which proposes the use of an alternative to the definition of “initial terminal.” As referenced in 49 CFR § 236.1001(c)(2), 49 CFR § 236.1013(a)(6) requires an “analysis of the applicability to the PTC system of the requirements of subparts A through G of this part that may no longer apply or are satisfied by the PTC system using an alternative method, and a complete explanation of the manner in which those requirements are otherwise fulfilled.” The RFA fails to demonstrate that the current definition in § 236.829 is no longer applicable or to provide a complete explanation as to how using an alternative definition in § 232.5 would otherwise fulfill the existing requirements. A request to deviate from the existing definition of “initial terminal,” which has the effect of increasing the frequency of operations without PTC technology, needs to be supported by data from all railroads making the request, not minimal data from one railroad. To approve this type of proposal, FRA would need to fully understand, based on railroad-provided data, the scope of the safety risks and safety benefits that would result from nineteen railroads adopting that proposed definition.

Please note that each railroad must continue to comply with the general conditions FRA previously imposed in its letter(s) certifying each railroad’s respective PTC system. As noted in FRA’s certification letters, FRA will consider noncompliance with any condition of FRA’s PTC System Certifications as a violation of the underlying requirement under 49 CFR part 236, subpart I, and 49 CFR § 236.1009(g)(1). In addition, any tenant railroad that operates I-ETMS on these railroads’ PTC-governed main lines must comply with all applicable provisions of the host railroad’s PTCSP, any applicable FRA-approved RFA to the host railroad’s PTCSP, and the applicable conditions FRA placed on its certification of the host railroad’s I-ETMS.²

The comment period for the *Federal Register* notice announcing these railroads’ joint request to amend their PTCSPs closed on August 8, 2023. See 88 Fed. Reg. 46370 (Jul. 19, 2023). On approximately August 7, 2023, the National Transportation Safety Board (NTSB) filed a set of comments, dated August 4, 2023, opposing the railroads’ RFA for multiple reasons, including concerns that any change that allows passenger and freight trains to operate on main line track without a functional PTC system has the potential to diminish the safety of train crews, passengers, and the public by eliminating the layer of protection from human error offered by PTC systems. Additionally, the NTSB expressed that the public and all affected agencies need adequate time to consider and comment on this specific proposal’s full implications for safety.

² Unless a tenant railroad’s operations are subject to an exception under 49 CFR § 236.1006(b).

On August 8, 2023, the Transportation Trades Department, AFL-CIO (TTD) and the International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART) each filed a set of comments opposing the railroads' RFA for multiple reasons, including concerns that approval of this RFA would allow trains to travel long distances without their required PTC systems. Currently, a PTC initialization failure must be fixed or otherwise addressed immediately before a train can proceed in most cases. Additionally, TTD expressed concern that the FRA's current 45-day window for decisions on PTCSP amendments is counterproductive. Even though FRA has 45 days to make a decision from the time it receives an RFA, the time it takes to publish the required notice in the *Federal Register* means that the public and stakeholders have less than 45 days to submit comments. In this instance, there were only 21 days between FRA's notice and the deadline for public comments. FRA thanks all stakeholders for their comments and endeavors to publish future notices as quickly as possible.

If you have any questions regarding this letter, please contact Mr. Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, at 816-516-7168 or gabe.neal@dot.gov.

Sincerely,

CAROLYN ROSE

HAYWARD-WILLIAMS

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Carolyn Hayward-Williams

Director, Office of Railroad Systems and Technology