



# National Transportation Safety Board

Washington, D.C. 20594

OCT 24 2011

Office of the Chairman

U.S. Department of Transportation  
Docket Management Facility  
1200 New Jersey Avenue, SE  
Room W12-140  
Washington, DC 20590-0001

Attention: Docket No. FRA-2011-0028; Notice No. 1 (RIN 2130-AC27)

Dear Sir or Madam:

The National Transportation Safety Board (NTSB) has reviewed the Federal Railroad Administration (FRA) notice of proposed rulemaking (NPRM), "Positive Train Control Systems," that was published in the *Federal Register* on August 24, 2011. The NPRM proposes amendments to FRA regulations implementing a provision of the Rail Safety Improvement Act of 2008 that mandates that certain passenger and freight railroads implement positive train control (PTC) systems by December 31, 2015.

Consistent with statute, the final rule became effective March 16, 2010, and established new regulations requiring each Class I railroad over which (1) poisonous-by-inhalation (PIH) or toxic-by-inhalation (TIH) hazardous materials are transported and (2) regularly scheduled intercity or commuter rail passenger transportation travels to implement a PTC system by December 31, 2015. The FRA is seeking further comments on its proposal to amend the regulations by eliminating two qualifying tests—the alternate route analysis and the residual risk analysis—that are required to avoid PTC system implementation on track segments that do not transport PIH and TIH hazardous materials traffic and are not used for intercity or commuter rail passenger transportation as of December 31, 2015.

The NTSB has continued to follow the recent litigation between the Association of American Railroads (AAR) and the FRA regarding PTC implementation. The NTSB also is aware of Executive Order 13563, issued on January 18, 2011, which requires federal agencies to review significant regulations to determine if they are outmoded, ineffective, insufficient, or excessively burdensome. Further, Vice Chairman Hart testified before the Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on Transportation and Infrastructure, U.S. House of Representatives, to affirm our strong support of the significant safety benefits that can be accomplished with implementation of PTC systems on our nation's railroads. The NTSB offers the following comments on this section of the NPRM:

**Title 49 Code of Federal Regulations 236.1005, "Requirements for Positive Train Control Systems"<sup>1</sup>**

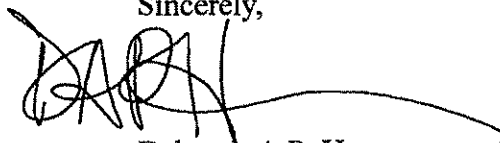
When the final rule addressing PTC implementation was issued in 2010, the FRA requested additional comments on specific issues. In our previously submitted comments, the NTSB acknowledged the fact that traffic patterns will likely change to some degree before December 31, 2015. These changes in traffic patterns will necessitate appropriately justified adjustments to the track segments on which PTC must be installed. The NTSB believes that the final rule as written provides enough flexibility to railroads, either at the time of initial filing of their PTC Implementation Plans (which has already passed) or through a request for amendment, to subsequently address changes in traffic patterns.

In addition to requiring PTC system implementation on railroad lines over which (1) PIH or TIH hazardous materials are transported and (2) regularly scheduled intercity or commuter rail passenger transportation travels, the Rail Safety Improvement Act of 2008 also requires PTC systems to be implemented on other tracks as the U.S. Secretary of Transportation may prescribe by regulation or order.

The NTSB believes the track segments that will be selected for PTC implementation will be reviewed and considered by the FRA in accordance with its discretionary authority. But the NTSB is concerned that by eliminating the requirements for an alternate route analysis and a residual risk analysis as currently required by the final rule in order for railroads to avoid PTC system implementation, the FRA's ability to identify other high-risk corridors will be hampered. The NTSB strongly encourages the FRA to maintain the railroads' current PTC Implementation Plans so that the traveling public, railroad employees, and communities near rail lines receive the maximum safety benefits.

The NTSB will continue to monitor and offer safety recommendations as a result of its accident investigations to improve the effectiveness of PTC standards. The NTSB appreciates the opportunity to comment on this NPRM. Should you require any additional information or clarification, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'DAPH', with a long horizontal flourish extending to the right.

Deborah A.P. Hersman  
Chairman

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<sup>1</sup> *Federal Register*, vol. 76, no. 164 (August 24, 2011), p. 52922.