

Users (Pub. L. 109–59, Aug. 10, 2005). The assignments include:

1. Activities listed in 23 CFR 771.117(c); and
 2. The example activities listed in 23 CFR 771.117(d).
- The MOU had an initial term of 3 years, proposed revision to 5 years, and may be renewed and/or amended. The renewal/amendments are the subject of this Notice. As part of this renewal, proposed changes to the MOU include modification to terminate an existing programmatic agreement between the State and FHWA for processing proposed projects that are candidates for categorical exclusion but that are not included on the lists described in 1–2 above. The MOU assigns to the State the responsibility for conducting Federal environmental review, consultation, and other related activities for projects that are subject to the MOU with respect to the following Federal laws and Executive Orders:
1. Clean Air Act (CAA), 42 U.S.C. 7401–7671q (determinations of project-level conformity if required for the project).
 2. FHWA noise regulations in 23 CFR part 772.
 3. Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531–1544, and Section 1536.
 4. Marine Mammal Protection Act, 16 U.S.C. 1361.
 5. Anadromous Fish Conservation Act, 16 U.S.C. 757a–757g.
 6. Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d.
 7. Migratory Bird Treaty Act, 16 U.S.C. 703–712.
 8. Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*
 9. Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306101 *et seq.*
 10. Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. 138 and 49 U.S.C. 303; and 23 CFR part 774.
 11. Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469–469(c).
 12. American Indian Religious Freedom Act, 42 U.S.C. 1996.
 13. Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209.
 14. Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319).
 15. Coastal Barrier Resources Act, 16 U.S.C. 3501–3510.
 16. Coastal Zone Management Act, 16 U.S.C. 1451–1465.
 17. Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–6.

18. Rivers and Harbors Act of 1899, 33 U.S.C. 401–406.

19. Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287.
20. Emergency Wetlands Resources Act, 16 U.S.C. 3921–3931.
21. TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11).
22. Flood Disaster Protection Act, 42 U.S.C. 4001–4128.
23. Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604 (known as section 6(f)).
24. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.
25. Superfund Amendments and Reauthorization Act of 1986 (SARA).
26. Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k.
27. Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
28. Executive Orders (E.O.) Relating to Highway Projects (E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13175, Consultation and Coordination with Indian Tribal Governments; E.O. 13112, Invasive Species, as amended by E.O. 13751, Safeguarding the Nation from the Impacts of Invasive Species; E.O. 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government; E.O. 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis; E.O. 14008, Tackling the Climate Crisis at Home and Abroad; Other Executive Orders not listed, but related to assigned projects.

The MOU allows the State to act in the place of the FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally recognized Indian Tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian Tribes, which is required under some of the above-listed laws and E.O.s. The State also may assist FHWA with formal consultations, with consent of a Tribe, but FHWA remains responsible for the consultation.

A copy of the proposed MOU may be viewed by contacting FHWA or the State at the addresses provided above. A copy may also be viewed online at the

following URL: www.udot.utah.gov/go/environmental.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: April 5, 2023.

Ivan Marrero,

Division Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Nos. FRA–2010–0028, –0029, –0039, –0042, –0043, –0045, –0048, –0049, –0051, –0054, –0056, –0057, –0058, –0059, –0060, –0061, –0062, –0064, –0065, and –0070]

Railroads' Joint Request To Amend Their Positive Train Control Safety Plans and Positive Train Control Systems

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

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on March 22, 2023, twenty host railroads submitted a joint request for amendment (RFA) to their FRA-approved Positive Train Control Safety Plans (PTCSP) reflecting the updated PTC onboard software, I–ETMS On-Board 6.5.0 and On-Board 6.5.1. This RFA includes modifications to the associated PTC Concept of Operations and PTC System Description documents, change or addition of system safety-critical functionality, modification to target safety levels and changes to the human-machine interface which requires amendments to PTC training for train crews. The functionality changes include: updates to Train Restriction Types to address the Pipeline and Hazardous Materials Safety Administration (PHMSA) final rule which restricts operating speeds of High-Hazard Flammable Train; the addition of a new system safety critical function, PTC Suspension, that prevents the generation and enforcement of targets within the limits of a PTC Suspension area with the exception of navigation failure and synchronization errors; and updates to the onboard

display to show prompting to the train crew whenever a system fault related to braking prediction calculation exits. As this joint RFA involves requests for FRA's approval of the proposed material modifications to FRA-certified positive train control (PTC) systems, FRA is publishing this notice and inviting public comment on railroads' joint RFA to their PTCSPs.

DATES: FRA will consider comments received by May 1, 2023. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to PTC systems.

ADDRESSES:

Comments: Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket numbers for the host railroads that filed a joint RFA to their PTCSPs are cited above and in the Supplementary Information section of this notice. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

FOR FURTHER INFORMATION CONTACT:

Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816-516-7168, email: Gabe.Neal@dot.gov.

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) Section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that the twenty host railroads' recent, joint RFA to their PTCSPs is available in their

respective public PTC dockets, and this notice provides an opportunity for public comment.

On March 22, 2023, the following twenty host railroads jointly submitted an RFA to their respective PTCSPs for their Interoperable Electronic Train Management Systems (I-ETMS): Alaska Railroad; The Belt Railway Company of Chicago; BNSF Railway; Caltrain; 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; Northeast Illinois Regional Commuter Railroad Corporation (Metra); Northern Indiana Commuter Transportation District; South Florida Regional Transportation Authority; Southern California Regional Rail Authority (Metrolink); Terminal Railroad Association of St. Louis; and Union Pacific Railroad. Their joint RFA is available in Docket Numbers FRA-2010-0028, -0029, -0039, -0042, -0043, -0045, -0048, -0049, -0051, -0054, -0056, -0057, -0058, -0059, -0060, -0061, -0062, -0064, -0065, and -0070. Interested parties are invited to comment on this RFA by submitting written comments or data. During FRA's review of these railroads' joint RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to PTC systems. See 49 CFR 236.1021; see also 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny these railroads' joint RFA to their PTCSPs at FRA's sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov). To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information,

please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2023-02; Train Makeup and Operational Safety Concerns

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

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2023-02 to emphasize significant concerns related to train makeup and to ensure that all railroads exercise due diligence and recognize the importance of taking proactive measures to address potential safety risks related to operating train builds with varying configurations, load and empty placement, distributed power arrangements, and other factors. FRA has noticed a rising trend in recent incidents where train build and makeup have been identified as a potential cause or contributing factor. In response, FRA incorporates train simulations into its investigative process when it is suspected that high in-train forces may have contributed to train accidents. To address these concerns, FRA is providing recommendations for freight railroads to improve the safety of their train build processes and practices.

FOR FURTHER INFORMATION CONTACT:

Christian Holt, Staff Director, Operating Practices Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 366-0978.

SUPPLEMENTARY INFORMATION:

Significant Incidents

On March 4, 2023, in Springfield, Ohio, a Norfolk Southern Railway (NS) 210-car mixed freight train totaling 17,966 trailing tons with Distributed Power Units (DPU) experienced a derailment involving 28 cars, including 21 empty and 7 loaded cars. The train had 82 cars equipped with end-of-car cushioning devices, and 18 of those derailed. The locomotives were arranged in a 3x2x0 configuration,¹ with

¹ 3x2x0 represents 3 headend locomotives, 2 mid DPU's, 0 rear DPU's.