



Transportation Trades Department, AFL-CIO

August 19, 2024

Ms. Carolyn Hayward-Williams
Director, Office of Railroad Systems and Technology
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington DC, 20590

**RE: Railroads' Joint Request To Amend Their Positive Train Control Safety Plans
Docket Nos. FRA-2010-0039, -2010-0045, -2010-0051, -2010-0056, and -2010-0060**

Ms. Hayward-Williams,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) notice regarding a joint Request for Amendment (RFA) received from five rail carriers to modify their FRA-approved Positive Train Control Safety Plans (PTCSP) in order to establish operating procedures for unplanned PTC outages. TTD consists of 37 affiliated unions representing the totality of rail labor, including the conductors and locomotive engineers who utilize PTC systems in their day to day work.¹ We respectfully request that the FRA deny the railroads' request. Additionally, TTD endorses the comments of our affiliates, the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART-TD) and the Brotherhood of Locomotive Engineers and Trainmen (BLET).

Emergency Operating Procedures

The RFA proposes specific operating procedures for unplanned PTC outages, which caused several minor disruptions in rail service in 2023. The railroads note in their request that cumulative, unplanned PTC outages lasted just over two and a half days and were experienced by four Class I railroads. As a result, the railroads propose to implement operating procedures for instances of unplanned PTC outages to avoid the current regulatory framework that stipulates that the FRA may immediately accept, review, and approve an RFA to a PTCSP in an emergency situation. Current regulations establish emergency operating procedures for unplanned PTC outages when one particular train is impacted. The proposed RFA would expand these same procedures to apply to fleet-wide outages.

¹ Attached is a complete list of the unions affiliated with TTD.

The railroads contend on page 9 of the filing that trains should be permitted to continue operating in emergency situations where the PTC system may need to be disabled, such as a cyber attack. This scenario is very different from other unplanned PTC outages, which are more frequent in nature and would likely be the most prevalent reasons for the usage of the conditions requested in this RFA. The railroads appear to conflate “emergencies” with “unplanned outages” which misrepresents the level of urgency of the majority of unplanned PTC outages. This ambiguity would be best addressed by a formal rulemaking wherein the FRA sets specific parameters, definitions, and conditions for operations during unplanned PTC outages and when these conditions are triggered. Accordingly, we respectfully request that the FRA deny this RFA.

Formal Rulemaking

The railroads note in their filing that the FRA has stated publicly its intention to initiate a rulemaking procedure to address unplanned, systemwide PTC outages. It is therefore concerning that these five carriers are attempting to subvert the normal regulatory process through this RFA. The FRA should consider the precedent that will be set if it grants this request as railroads may be incentivized to circumvent the regulatory process through their PTCSPs. These modifications are not an adequate replacement for regulations that have been through rigorous vetting by the FRA and undergone thorough evaluation by impacted stakeholders. The public comment process for PTC RFAs, though valuable, does not receive the same visibility and level of public participation as formal proposed rules.

As the regulatory agency, FRA has a duty to not only ensure that railroad operations are conducted safely, but that the public has opportunities to engage and be assured that railroad safety is being actively enforced. Regulations exist for a reason, and a patchwork system of waivers and PTCSPs degrades safety for rail workers and the public.

We appreciate the opportunity to provide public comment and we look forward to working with the FRA in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', enclosed within a hand-drawn circle.

Greg Regan
President