



**Committee on Transportation and Infrastructure**  
**U.S. House of Representatives**

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**Washington, DC 20515**

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**Ranking Member**

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June 21, 2018

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The Honorable Ron Batory  
Administrator  
Federal Railroad Administration  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, DC 20590

Dear Administrator Batory:

We understand that the Federal Railroad Administration (FRA) recently approved a request from the Nashville Regional Transit Authority (RTA) and the Nashville & Eastern Railroad Corporation (NERC) for a permanent exemption from the congressional mandate to implement positive train control (PTC). RTA operates a commuter railroad called the Music City Star on 32 miles of right-of-way owned by the NERC, a short line railroad, between Nashville, Tennessee, and Lebanon, Tennessee. The Music City Star transports 3,520 passengers weekly or 183,040 passengers annually.

Although the Music City Star is one of the smallest commuter rail operations in the United States, the size of a railroad does not negate the potential for an accident. According to the FRA's safety database, human factors remains the leading cause of all accidents involving commuter railroads. PTC is designed to address accidents attributable to human factors. While RTA has committed to implement PTC if it expands its commuter rail service, any exemption from PTC raises serious safety concerns.

As you are aware, the National Transportation Safety Board (NTSB) has recommended that the railroads implement PTC for nearly 50 years. Since 1969, the NTSB has investigated 153 PTC-preventable accidents that resulted in approximately 300 fatalities and 7,000 injuries.<sup>1</sup> In 2008, after years of delay by the FRA and the railroads, Congress mandated implementation of PTC in the Rail Safety Improvement Act of 2008 (RSIA) (P.L. 110-432). Nonetheless, the NTSB has already investigated two accidents involving operations under PTC exemptions issued by FRA.

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<sup>1</sup> The NTSB investigated two fatal accidents involving segments of track that were exempt from PTC under regulatory exemptions for passenger terminals. See NTSB Special Report: *End-of-Track Collisions at Terminal Stations Hoboken, New Jersey, September 29, 2016 and Atlantic Terminal, Brooklyn, New York, January 4, 2017*

RSIA required that all PTC systems be designed to automatically prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position. The RTA-NERC commuter rail and freight network, as described in their Request for Amendment, Revision 9, dated November 29, 2017, even with temporal separation of freight and commuter rail traffic, does not provide a level of safety that is equivalent to or greater than the level of safety achieved through implementation of PTC. *See Section 3 and Table 3 of the Request for Amendment.*

Exemptions to the PTC mandate were not authorized in RSIA. They were adopted in the FRA's implementing regulations. *See Section 236.1019 of title 49, Code of Federal Regulations.* Under those regulations, intercity passenger, commuter, and freight railroads can obtain passenger terminal exemptions and three types of limited operations exemptions from the PTC requirement for ANY segment of track as long as the railroads meet certain conditions. For example, intercity passenger and commuter railroads can obtain exemptions from the PTC requirement if they operate 12 or less trains daily in signaled territory or four or less trains daily in unsignaled or "dark" territory.

For your reference, we have attached a list of all of the main line track exemptions that FRA has thus far approved. These were provided to the Committee in response to questions for the record we submitted to FRA in follow-up to the February 15, 2018, hearing on "Oversight of Positive Train Control Implementation in the United States."

We continue to believe the exemptions provided in the regulations are overly broad – enabling intercity passenger, commuter, and freight railroads to avoid PTC implementation simply by reducing service, as the RTA and NERC did. This end-run around the law is contrary to congressional intent in mandating implementation of PTC, the requirements of the 2008 Act, and repeated NTSB recommendations, as they could lead to serious safety consequences for the traveling public. Moreover, we are concerned that the RTA and NERC exemption will serve as a model for other commuter railroads for requests for an exemption on a segment-by-segment basis.

We strongly urge FRA to revise its regulations to tighten PTC exemptions and focus on ways to help railroads comply with the law rather than circumvent it through regulatory carve outs. For example, RTA stated in its request for amendment that "limited funding available" led to RTA's inability to implement PTC. Congress has authorized and appropriated funding for PTC implementation. Additional funding is anticipated for fiscal year 2019. Prioritizing that funding should have been FRA's first attempt at helping RTA and NERC implement this lifesaving technology.

In fact, it is our understanding that, in May 2016, RTA applied for \$1.2 million in PTC discretionary grants that were appropriated by Congress in the Consolidated Appropriations Act, 2016, Division L, Title I (P.L. 114-113), but this application was denied because FRA received more requests for funding than what was made available. RTA applied for that funding a second time in September 2016 from grants guaranteed by the Highway Trust Fund as authorized by section 3028 of the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94), but this application, too, was denied. We therefore request that FRA provide us with a list of all freight, intercity passenger, and commuter railroads that applied for grants or loans for implementation of PTC from December 4, 2015, through July 2, 2018, the deadline for applications under the Notice of Funding Availability

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for PTC funds provided by the Consolidated Appropriations Act, 2018. Please include the amounts requested by each of those railroads and indicate which applications were approved and denied and the reasons for those denials. We believe this information will better inform Congress of the PTC funding needs of the railroads.

Finally, we request that FRA notify the majority and minority of the Committee on Transportation and Infrastructure, the Committee on Commerce, Science, and Transportation, and the House and Senate Committees on Appropriations of future requests for exemptions from the PTC requirement before they are approved. FRA should also maintain a list of all PTC exemptions that have been proposed and approved on its website in an easily accessible format to ensure transparency. We note that FRA removed the link to the RTA and NERC docket on its PTC website once the exemption was approved. That link should have been maintained.

We look forward to receiving your response. In the interim, if you have additional questions or need further information, please contact us or the minority staff of the House Transportation and Infrastructure Committee's Subcommittee on Railroads, Pipelines, and Hazardous Materials at (202) 225-3274.

Sincerely,



PETER DeFAZIO  
Ranking Member  
Committee on Transportation and  
Infrastructure



MICHAEL CAPUANO  
Ranking Member  
Subcommittee on Railroads, Pipelines,  
and Hazardous Materials



STEVE COHEN  
Member of Congress



JIM COOPER  
Member of Congress

Enclosure

As of March 22, 2018, FRA has approved the following railroads' requests for a main line track exception under 49 CFR § 236.1019:

**A. Passenger Terminal Exceptions Under 49 CFR § 236.1019(b)**

Railroad	Main Line Track Exception Type	Track Mileage Estimate
Amtrak (ATK)	Passenger Terminal (7 locations)	Less than 10 miles
Denton County Transportation Authority (DCTA)	Passenger Terminal (2 locations)	Less than 3 miles
Long Island Rail Road (LIRR)	Passenger Terminal (3 locations)	Less than 10 miles
Massachusetts Bay Transportation Authority (MBTA)	Passenger Terminal (2 locations)	Less than 2 miles
Metro-North Commuter Railroad Co. (MNCW)	Passenger Terminal	Less than 1 mile
Nashville and Eastern Railroad / Nashville Regional Transportation Authority (NRTX)	Passenger Terminal (2 locations)	Less than 1 mile
New Jersey Transit (NJTR)	Passenger Terminal	Less than 1 mile
Northeast Illinois Regional Corporation (NIRC) "Metra"	Passenger Terminal	Less than 1 mile
Northern Indiana Commuter Transportation (NICD)	Passenger Terminal	3 miles
Peninsula Corridor Joint Powers Board (PCMZ) "Caltrain"	Passenger Terminal	Less than 1 mile
Portland & Western Railroad (PNWR)	Passenger Terminal (3 locations)	Less than 1 mile

Railroad	Main Line Track Exception Type	Track Mileage Estimate
Sonoma-Marín Area Rail Transit (SMART)	Passenger Terminal	Less than 1 mile
Southeastern Pennsylvania Transportation Authority (SEPTA)	Passenger Terminal	Less than 1 mile
Southern California Regional Rail Authority (SCAX) "Metrolink"	Passenger Terminal	Less than 1 mile
Trinity Railway Express (TRE)	Passenger Terminal (3 locations)	Less than 2 miles
Union Pacific Railroad (UP)	Passenger Terminal	Less than 1 mile

**B. Limited Operations Exceptions Under 49 CFR § 236.1019(c)(1)(i)**

Railroad	Main Line Track Exception Type	Estimated Track Mileage
Alaska Railroad (ARR)	Limited Operations (8 locations)	Less than 20 miles
Canadian National Railway (CN)	Limited Operations (3 locations)	Approx. 2 miles
Long Island Rail Road (LIRR)	Limited Operations (10 locations)	Less than 10 miles
Massachusetts Bay Transportation Authority (MBTA)	Limited Operations (4 locations)	Less than 2 miles
Metro-North Commuter Railroad Co. (MNCW)	Limited Operations (7 locations)	Less than 3 miles
Minnesota Commercial Railway (MNNR)	Limited Operations	Less than 2 miles
New Mexico Rail Runner Express (NMRX) "Rio Metro"	Limited Operations	24 miles *
New Orleans Public Belt (NOPB)	Limited Operations	Less than 6 miles

\* FRA states this was an emergency submission to the Subcommittee.

Railroad	Main Line Track Exception Type	Estimated Track Mileage
North County Transit District (SDNX)	Limited Operations	Less than 1 mile
Peninsula Corridor Joint Powers Board (PCMZ) "Caltrain"	Limited Operations (3 locations)	Less than 2 miles
Souder Commuter Rail (SCR)	Limited Operations	Less than 1 mile
Southeastern Pennsylvania Transportation Authority (SEPTA)	Limited Operations	Less than 1 mile
Virginia Railway Express (VREX)	Limited Operations (3 locations)	Less than 1 mile

**C. Limited Operations Exceptions Under 49 CFR § 236.1019(c)(1)(ii)**

Railroad	Main Line Track Exception Type	Estimated Track Mileage
Long Island Rail Road (LIRR)	Limited Operations	50 miles
Metro-North Commuter Railroad Co. (MNCW)	Limited Operations (2 locations)	52 miles

**D. Limited Operations Exceptions Under 49 CFR § 236.1019(c)(1)(iii)**

FRA has not approved any main line track exceptions under this provision as of March 22, 2018.

**E. Limited Operations Exceptions Under 49 CFR § 236.1019(c)(2)(i)**

Railroad	Main Line Track Exception Type	Estimated Track Mileage
Massachusetts Coastal Railroad (MCRR)	Limited Operations	43 miles
New England Central Railroad (NECR)	Limited Operations (2 locations)	237 miles
New Jersey Transit (NJTR)	Limited Operations (5 locations)	Less than 30 miles
Saratoga and North Creek Railway (SNC)	Limited Operations	Approx. 55 miles

Railroad	Main Line Track Exception Type	Estimated Track Mileage
Vermont Railway (VRS)	Limited Operations (3 locations)	Approx. 24 miles

**F. Limited Operations Exceptions Under 49 CFR § 236.1019(c)(2)(ii)**

Railroad	Main Line Track Exception Type	Estimated Track Mileage
Buckingham Branch (BB)	Limited Operations (2 locations)	Approx. 275 miles
Consolidated Rail Corp. (CRSH)	Limited Operations	Approx. 5 miles
New Jersey Transit (NJTR)	Limited Operations	Approx. 3 miles
Pan Am Railways (GRS)	Limited Operations (4 locations)	Approx. 106 miles

**G. Any Other Main Line Track Exceptions Under 49 CFR § 236.1019**

In addition, FRA has approved the following railroads' requests for a main line track exception under 49 CFR § 236.1019(c)(3):

Railroad	Main Line Track Exception Type	Estimated Track Mileage
BNSF Railway	Limited Operations (5 locations)	Approx. 587.2 miles
Canadian National Railway	Limited Operations (4 locations)	Approx. 19.28 Miles and Y&MV Junction to Milepost 5
Union Pacific Railroad	Limited Operations (3 locations)	Approx. 278.57 miles