



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2010-0034]

Port Authority Trans-Hudson's Request to Operate Its Positive Train Control System with Procedural Mitigations

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

ACTION: Notice of availability.

SUMMARY: This document provides the public with notice that, on May 23, 2022, Port Authority Trans-Hudson (PATH) submitted a request to temporarily operate its conditionally FRA-certified Communications Based Train Control (CBTC) positive train control (PTC) system with a procedural mitigation to address a recently discovered software error. As this request involves the failure of a conditionally certified PTC system to perform its intended function, FRA is publishing this notice to advise the public that: PATH has determined the cause of the failure to be a software error; PATH is in the process of repairing the error without undue delay, as FRA's regulations require; and PATH has proposed a procedural mitigation in the interim to ensure that the software error will not cause a further failure of PATH's PTC system. Based on FRA's review of all pertinent information, FRA has approved PATH to temporarily operate its conditionally certified PTC system with a procedural mitigation.

DATES: FRA may consider comments to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

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 number for this host railroad is Docket No. FRA-2010-0034. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports>. 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, e-mail: 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. Under 49 CFR Sections 236.1023(j) and 236.1029(a), when any safety-critical PTC system, subsystem, or component fails to perform its intended function, the cause must be determined and the faulty product adjusted, repaired, or replaced without undue delay. Until corrective action is completed, a railroad shall take appropriate action as specified in its PTC Safety Plan (PTCSP).

FRA conditionally certified PATH's CBTC PTC system on November 27, 2018. Since that time, to FRA's knowledge, PATH's PTC system has operated reliably performing its intended functions, except in May 2022. Recently, PATH experienced two safety incidents on May 12 and May 17, 2022, with its PTC system. In response to these safety incidents and until the cause of the incidents was determined, PATH operated its PTC system in manual mode. Through investigation, testing, and replication of the events that led to the safety incidents, PATH determined on May 23, 2022, the cause to be a software error. PATH subsequently developed a procedural mitigation to prevent the unique series of events that resulted in the safety incident. PATH is in parallel rectifying the software error.

PATH requested to operate its PTC system in manned automatic train control mode, with a procedural mitigation to prohibit the unique series of events that resulted in the safety incident, which FRA approved temporarily. As noted above, FRA's PTC regulations require PATH to repair the software error without undue delay. *See* 49 CFR 236.1023(j), 236.1029(a).

FRA will publish a further notice, including an opportunity for comment, when PATH submits a request for amendment (RFA) to its PTCSP that will include the update to PATH's PTC system rectifying the software error, in accordance with 49 CFR 236.1021. As background, 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(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.

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. 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, D.C.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

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