



United States Government Accountability Office
Washington, DC 20548

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May 25, 2012

The Honorable John D. Rockefeller
Chairman
The Honorable Kay Bailey Hutchison
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable John L. Mica
Chairman
The Honorable Nick J. Rahall II
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Railroad Administration: Positive Train Control Systems (RRR)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Railroad Administration (FRA), entitled "Positive Train Control Systems (RRR)" (RIN: 2130-AC27). We received the rule on May 15, 2012. It was published in the *Federal Register* as a final rule on May 14, 2012, with a stated effective date of July 13, 2012. 77 Fed. Reg. 28,285.

The final rule amends the regulations implementing a provision of the Rail Safety Improvement Act of 2008¹ that requires certain passenger and freight railroads to install positive train control (PTC) systems. This final rule removes regulatory provisions that require railroads to either conduct further analyses or meet certain risk-based criteria in order to avoid PTC system implementation on track segments that do not transport poison- or toxic-by-inhalation hazardous (PIH) materials traffic and are not used for intercity or commuter rail passenger transportation as of December 31, 2015.

¹ 49 U.S.C. § 20157.

Enclosed is our assessment of FRA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that FRA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Matthew T. Prince
Trial Attorney
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
ENTITLED
"POSITIVE TRAIN CONTROL SYSTEMS (RRR)"
(RIN: 2130-AC27)

(i) Cost-benefit analysis

The Federal Railroad Administration (FRA) discussed the benefits and costs of this final rule. The benefits identified by FRA include reduced mitigation costs, reduced wayside costs, and reduced locomotive costs, all including maintenance. FRA estimates that over the next 20 years these benefits will total to \$619,969,287 at a 7 percent discount rate and \$818,031,752 at a 3 percent discount rate. The costs identified by FRA include foregone reductions in fatality prevention, injury prevention, train delay, property damage, equipment cleanup, environmental cleanup, and evacuations. FRA estimates these costs over the next 20 years will total \$26,702,267 at a 7 percent discount rate and \$39,308,896 at a 3 percent discount rate. FRA also believes that the lines impacted by this final rule pose significantly less risk because they generally do not carry passenger trains or PHI materials and generally have lower accident exposures.

FRA estimated the net societal benefits in the high, expect, and low cases at 7 percent and 3 percent discount rates. At a 7 percent discount rate, the net societal benefits of the high case will be \$793,856,299, of the expected case will be \$593,267,020, and of the low case will be \$442,825,061. At a 3 percent discount rate, the net societal benefits of the high case will be \$1,041,764,269, of the expected case will be \$778,722,856, and of the low case will be \$581,441,797.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

FRA determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

FRA determined that this final rule will not result in total expenditures by state, local, or tribal governments, in the aggregate, or by the private sector of \$100 million (\$141.3 million adjusted for inflation) or more in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

FRA published a proposed rule on August 24, 2011. 76 Fed. Reg. 52,918. On October 14, 2011, FRA published a notice of public hearing and an extension of the comment period. 76 Fed. Reg. 63,899. The public meeting was held on November 10, 2011. Comments submitted on the proposed rule and at the public hearing were discussed in the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

FRA determined that this final rule contains information collection requirements under the Act. FRA identified 30 sections of the rule with information collection requirements; many of these sections contained multiple requirements. These information collection requirements were submitted to the Office of Management and Budget (OMB) for review.

Statutory authorization for the rule

FRA promulgated this final rule under the authority of section 104 of the Railroad Safety Improvement Act of 2008. 49 U.S.C. § 20157.

Executive Order Nos. 12,866 and 13,563 (Regulatory Planning and Review)

FRA determined that this final rule is significant under the Order.

Executive Order No. 13,132 (Federalism)

FRA determined that this final rule has no federalism implications, other than the possible preemption of state laws and that preparation of a federalism summary impact statement was not required.