

# Shared Rail Corridors – Technical Issues

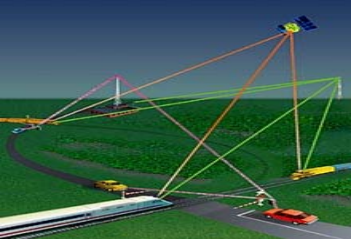
Allison I. Fultz  
Kaplan Kirsch & Rockwell LLP  
Washington, DC  
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KAPLAN KIRSCH ROCKWELL

## Rail Safety Improvement Act of 2008 (**RSIA**), Pub. L. 110-432

- ▶ Mandates comprehensive operational and physical improvements
- ▶ Positive Train Control (**PTC**) implementation has begun
- ▶ Rulemaking to implement legislation is underway
- ▶ Approach to safety – increasing emphasis on risk reduction and avoidance rather than protecting against aftereffects of incident
- ▶ Actions – rulemakings, comment proceedings



# PTC Implementation

## PTC - RSIA, Sec. 104 (codified at 49 U.S.C. 20157)

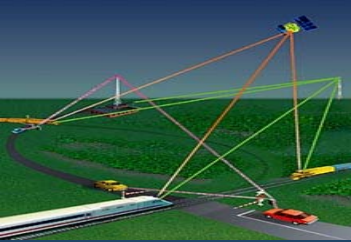
- ▶ Implementing regulations at 49 C.F.R. Parts 229, 234, 235 and 236
- ▶ Final rule issued Jan. 15, 2010 (75 Fed. Reg. 2598)
- ▶ Final rule amendments issued Sept. 27, 2010 (75 Fed. Reg. 59,108)

## Roadbumps

- ▶ Timing – lack of availability of established technology and standards
- ▶ Cost – no help on the horizon
- ▶ Spectrum availability
- ▶ Mandated scope of PTC coverage

Concerns are now shaping legislative and regulatory activities



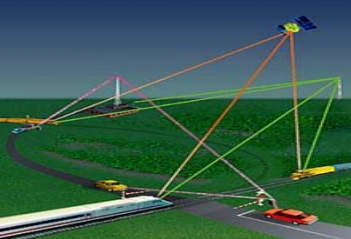


# PTC Implementation

## GAO Report 11-133 (Dec. 15, 2010)

- ▶ Risks to implementation of PTC by Dec. 31, 2015 deadline
  - Nascent technology
  - Limited pool of manufacturers
  - Lack of bandwidth
  - Domino effect – commuter operators, Class II and III freights
  - Costs – “especially problematic” for passenger railroads
  - Unknown duration of field testing and commissioning



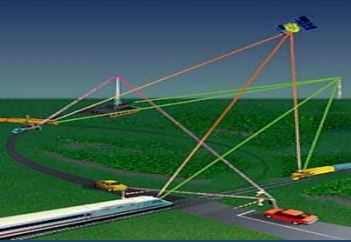


# PTC Implementation

## GAO Report 11-133 (Dec. 15, 2010)

- ▶ PTC side effects - generally
  - Focus on PTC may divert resources from development of other safety improvements



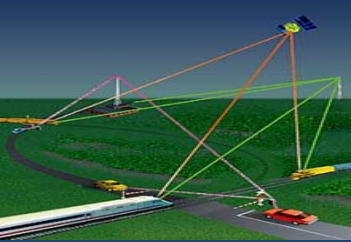


# PTC Implementation

## GAO Report 11-133 (Dec. 15, 2010)

- ▶ PTC side effects – commuter rail operators
  - Impact on state of good repair backlog - **\$12.6B** for commuter rail operators
  - PTC costs adding to financial pressures on commuter rail operators
    - Service reductions
    - Fare increases
    - Workforce reductions



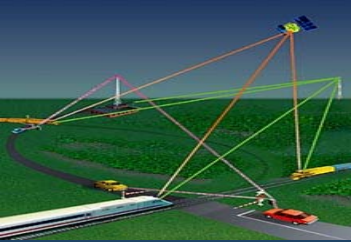


# PTC Implementation

## GAO Report 11-133 (Dec. 15, 2010)

- ▶ Potential sources of delay in implementation
  - Interoperability standards
  - Availability of key system components
  - Availability of radio spectrum
  - Implementation sequence
    - Field testing
    - Submission of PTC safety plans to FRA
    - Review and certification by FRA
    - Final commissioning



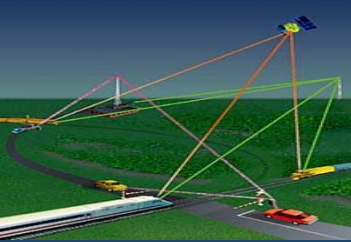


# PTC Implementation

## Other Developments

- ▶ March 2011 - Congress **rescinded** \$50M it had appropriated for FY 2010 and zeroed out \$50M for FY 2011 for the Railroad Safety Technology Program – H. J. Res. 48 (Pub. L. 112-6)
  - ▶ Some of that funding intended to assist PTC implementation



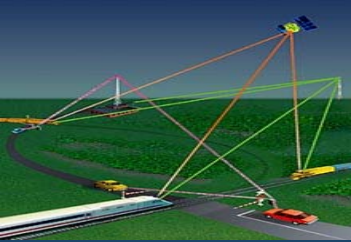


# PTC Implementation

## Other Developments

- ▶ **STB rulemaking – EP 706** (Service Date Feb. 10, 2011)
  - Should Class 1 railroads be required to separately report costs of PTC development, installation and maintenance in annual reports to STB?
  - No timeline for proceeding yet
  - Potential impact on commuter operators
    - Any contributions to freights' PTC costs by commuter operators must be accurately reflected
    - Any costs built into railroad's freight rates should not be charged again to commuter operator





# PTC Implementation

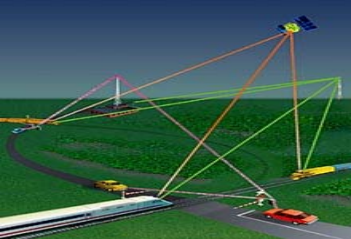
## Other Developments

### **S. 301** (introduced Feb. 8, 2011)

- Potentially reduces number of miles on which PTC required to be installed
- Proposes to base requirement on anticipated 2015 TIH/PIH traffic volumes rather than 2008 levels

**Parallel development: AAR D.C. Circuit appeal – Case Nos. 10-1198 and 10-1308**





# PTC Implementation

## Other Developments

- ▶ **FCC** solicits comments on PTC implementation – Public Notice May 5, 2011 – WT Docket No. 11-79
  - Concern about availability of spectrum in 220 MHz range
  - Heavily populated areas most constrained
  - Notes relative disadvantage of passenger rail operators in acquiring spectrum
- ▶ Stay tuned – but not at 220 MHz





# Done Deals

- ▶ **Passenger Vehicle Design** – FRA issued final rule on front end strength of passenger cars and multiple-unit locomotives on Jan. 8, 2010 (75 Fed. Reg. 1180)
- ▶ **Restrictions on Use of Handheld Electronic Devices** by Railroad Operating Employees – FRA issued final rule Sept. 27, 2010 (75 Fed. Reg. 59,580)





# Coming Attractions

- ▶ **Conductor Certification** (RSIA Sec. 402, codified at 49 U.S.C. 20163) – FRA NPRM, FRA Docket No. FRA-2009-0035 (75 Fed. Reg. 69,166, Nov. 10, 2010)
  - FRA proposes certification of (a) “conductors” and (b) “passenger conductors” who have received emergency preparedness training under 49 C.F.R. Part 239





# Coming Attractions

- ▶ **Hours of Service** regulations for train employees providing commuter and intercity passenger rail transportation (RSIA Sec. 108, codified at 49 U.S.C. 20116, 21102, 21109) – FRA NPRM, FRA Docket No. FRA-2009-0043 (76 Fed. Reg. 16,200, Mar. 22, 2011)
  - FRA proposes 2 tiers of scheduling assignments – Type 1 – deemed low risk – no mitigation required; Type 2 – presumed risk requires mitigation
  - Requires risk analyses and application of human fatigue research





# Coming Attractions

- ▶ **Safety Risk Reduction Programs** (RSIA Sec. 103, codified at 49 U.S.C. 20156) - FRA ANPRM, FRA Docket No. FRA-2009-0038 (75 Fed. Reg. 76,345, Dec. 8, 2010)
  - Risk-based hazard analysis
  - Technology implementation plan
  - Fatigue management plan
  - No further rounds of comments to date





# Coming Attractions

- ▶ **Locomotive Safety Standards** – FRA NPRM, FRA Docket No. FRA-2009-0095 (76 Fed. Reg. 2200, Jan. 12, 2011)
  - Coordination and interoperability - Systematic approach to hardware and software safety analysis
  
- ▶ Study on **Protection of Certain Railroad Risk Reduction Data** from Discovery or Use in Litigation – FRA Notice and request for public comment, FRA Docket No. FRA-2011-0025 (76 Fed. Reg. 26,682, May 9, 2011)





# QUESTIONS?

Allison I. Fultz

Charles A. Spitulnik

Kaplan Kirsch & Rockwell LLP

Washington, DC

(202) 955-5600

[afultz@kaplankirsch.com](mailto:afultz@kaplankirsch.com)

[cspitulnik@kaplankirsch.com](mailto:cspitulnik@kaplankirsch.com)

[www.kaplankirsch.com](http://www.kaplankirsch.com)

[www.transitattorneys.com](http://www.transitattorneys.com)

