Overview

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 - 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 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

  - 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
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
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)

Coming Attractions


- 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


- 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

  - Risk-based hazard analysis
  - Technology implementation plan
  - Fatigue management plan
  - No further rounds of comments to date
Coming Attractions

  - 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?

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