

State	Notification-based relief (less than 1,000 BOE per year)	Request-based relief (less than 15 BOE per well per day)
Louisiana	Yes	Yes.
Michigan	Yes	No.
Montana	Yes	No.
Nevada	No	No.
New Mexico	No	No.
North Dakota	No	No.
Oklahoma	No	No.
South Dakota	No	No.
Utah	No	No.
Wyoming	Yes	No.

Federal oil and gas properties located in all other states are eligible for relief if they qualify as marginal properties under the rule and if no portion of the royalties derived from the property is shared with the state.

For information on how to obtain relief, please refer to the rule, which can be viewed on the MMS Web site at http://www.mrm.mms.gov/Laws_R_D/FRNotices/AC30.htm.

All correspondence, records, or information received in response to this Notice are subject to disclosure under the Freedom of Information Act. All information provided will be made public unless the respondent identifies which portions are proprietary. Please highlight the proprietary portions, including any supporting documentation, or mark the page(s) that contain proprietary data. Proprietary information is protected by the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), the Indian Mineral Development Act of 1982 (25 U.S.C. 2103), and Department regulations (43 CFR part 2).

Dated: November 16, 2005.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. 05-23621 Filed 12-2-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 234 and 236

[Docket No. FRA-2001-10160]

RIN 2130-AA94

Standards for Development and Use of Processor-Based Signal and Train Control Systems; Clarification and Correcting Amendments

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

ACTION: Final rule; clarification and correcting amendments.

SUMMARY: FRA is clarifying preamble language and correcting rule text language in FRA's Standards for Development and Use of Processor-Based Signal and Train Control Systems, a final rule published on March 7, 2005 (PTC Rule). First, some language in the section-by-section analysis portion of the preamble to the PTC Rule inadvertently differs from the actual regulatory language, and FRA is noting the unintended variation to avoid confusion. Second, FRA is clarifying language regarding the applicability of new 49 CFR part 236, subpart H (the Processor-Based Standards) to highway-rail grade crossing warning systems (HGCWS). FRA wants to ensure that the rule language conforms with FRA's initial intent that the regulation apply to only certain HGCWS. Therefore, FRA is adding a provision to clarify which HGCWS products may be excluded from the requirements of the PTC Rule. FRA is also adding a provision to clarify that certain HGCWS products excluded from the requirements of the Processor-Based Standards may, at the option of the railroad, be made subject to the Processor-Based Standards. Third, FRA is adding a provision to clarify which HGCWS products shall be included in the software management control plans pursuant to 49 CFR 236.18. Finally, FRA is correcting a minor error in which a provision of the Processor-Based Standards was incorrectly cited.

DATES: This rule is effective January 4, 2006.

FOR FURTHER INFORMATION CONTACT: Tom McFarlin, Staff Director, Signal and Train Control Division, Office of Safety, FRA 1120 Vermont Avenue, NW., Mail Stop 25, Washington, DC 20590 (telephone: 202-493-6203); or Melissa Porter, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont, NW., Mail Stop 10, Washington, DC 20590 (telephone: 202-493-6034).

SUPPLEMENTARY INFORMATION: On March 7, 2005, FRA published the PTC Rule,

which establishes performance-based standards for the development and use of processor-based signal and train control systems. 70 FR 11052. Since the publication of the PTC Rule, FRA has determined that certain provisions need clarification or correction. First, FRA notes that some incorrect terms and an incorrect date were included in the section-by-section analysis portion of the preamble, all of which differ from the actual regulatory text. FRA is correcting the errors to prevent misinterpretations. Second, in 49 CFR 234.275, "Processor-Based Systems," FRA is clarifying the category of HGCWS to which it intended portions of the PTC Rule to apply. (All references in this final rule to a section or other provision are references to a section or other provision in title 49 of the Code of Federal Regulations, unless otherwise noted). FRA is correcting that section to include a provision to exclude certain HGCWS products from the requirements of the PTC Rule, as the agency similarly did for signal and train control system products in § 236.911. FRA is further correcting § 234.275 to make it explicit that a railroad has the right to qualify an excluded product and make it subject to the Processor-Based Standards. Third, FRA is clarifying what HGCWS should be included in a railroad's software management control plan, pursuant to § 236.18. Finally, FRA is correcting an erroneous section reference in § 236.913(c)(1). The section referenced does not exist. FRA more specifically discusses these issues in the "Section-by-Section Analysis" below.

Section-by-Section Analysis

1a. Preamble Language for § 236.18, "Software Management Control [Plan]"

In the section-by-section analysis of § 236.18, FRA referred to the correct term "software management control plan" variously as "software management control" and "software management plan." FRA notes that "software management control" and "software management plan" are

intended to refer to “software management control plan.”

1b. Preamble Language for § 236.911, “Exclusions”

In the section-by-section analysis of § 236.911, FRA erroneously stated that “[p]aragraph (a) provides that the subpart does not apply to products in service as of May 6, 2005.” The referenced date should have read “June 6, 2005” rather than “May 6, 2005.” FRA does not believe that this error has created significant confusion because the date is correct in the regulatory text itself, but in an effort to eliminate any possible confusion, we are pointing out that the date cited in the analysis should have been June 6, 2005.

Corrections to Regulatory Text

2. Section 234.275, “Processor-Based Systems”

As issued in the PTC Rule, § 234.275(b) requires that HGCWS containing “new or novel technology or that provide safety-critical data to a railroad signal [sic] system” comply with part 236, subpart H, the Processor-Based Standards. Section 236.911, “Exclusions,” provides that products designed in accordance with subparts A through G of part 236, that were in development as of March 7, 2005, may be excluded from the requirements of the Processor-Based Standards, but FRA inadvertently did not provide a similar exclusion for products designed in accordance with 49 CFR part 234, “Grade Crossing Signal System Safety,” subparts A through D. Several railroads and suppliers submitted notifications to FRA by June 6, 2005, of various products that were in development, some of which contain processor-based highway-rail grade crossing warning systems, subsystems, or components (i.e., products that were designed in accordance with 49 CFR part 234, subparts A through D).

In order to clarify that the exclusion from the Processor-Based Standards also applies to HGCWS products under development as of March 7, 2005, FRA is amending § 234.275(c) accordingly. The reasons for this decision are similar to those provided for excluding certain products pursuant to § 236.911, “Exclusions”: (1) it would be too costly for the railroads and suppliers to re-do work and analysis for a product on which development efforts have already begun, and (2) it would be unfair to subject later implementation of such technology to the requirements of the Processor-Based Standards. In addition, FRA will provide railroads and suppliers with the option to later elect

to qualify an excluded product under the Processor-Based Standards.

Therefore, in this technical amendment, FRA is adding a provision in § 234.275(b) to exclude from the requirements of the Processor-Based Standards, those processor-based highway-rail grade crossing warning systems, subsystems, or components that meet all of the following criteria: (1) Currently under development, (2) designed in accordance with 49 CFR part 234, subparts A through D, and (3) not in service as of December 5, 2005, but will be placed in service as of December 5, 2008. Railroads and suppliers will, however, be required to submit a notification to FRA regarding the product under development by March 6, 2006 and the product must be placed in service as of December 5, 2008. Any railroad or supplier that previously submitted a notification letter to FRA pursuant to § 236.911 regarding a HGCWS need not submit a new notification letter. FRA will consider the previously submitted letter when determining whether a product should be excluded.

If read literally, the last sentence of § 234.275(c) as issued in the PTC Rule requires more HGCWS to be subject to the software management control plan requirement of § 236.18 than FRA intended. In particular, the rule language currently indicates that *any* existing products that both are used at HGCWS and provide safety-critical data to, or receive safety-critical data from, a railroad signal or train control system, are required to be included in the software management control plan, even if they are not processor-based, pursuant to § 236.18. The intent of requiring a software management control plan under § 236.18 is to ensure that the proper and intended version of software not required to be included in a Product Safety Plan pursuant to § 236.907 of this chapter, is documented and maintained throughout the life-cycle of the system. Only processor-based systems involve software, and thus the inclusion of a non-processor-based HGCWS in a software management control plan would provide no benefit, but would only add unnecessarily to the cost of implementation of the PTC Rule. In addition, FRA did not intend for HGCWS that receive information from a signal or train control system to be subject to the requirements of § 236.18. FRA is therefore restructuring § 234.275 to correct these errors and to clarify the intended requirements of the regulation.

3. Section 236.913, “Filing and Approval of PSPs”

FRA is amending § 236.913(c)(1) as issued in the PTC Rule to correct an incorrect regulatory reference. The reference to non-existent § 236.917(e)(1) should be changed to § 236.917(a)(1). Accordingly, the regulatory text is changed to reflect the correct regulatory cite.

Notice and Comment Procedures

Because these corrections and clarifications do no more than revise the PTC Rule to meet FRA’s original intent when issuing the rule, notice and comment procedures are “impracticable, unnecessary, or contrary to the public interest within the meaning of section 553 (b)(3)(B) of the Administrative Procedure Act. Public comment is unnecessary because in making these technical amendments, FRA is not exercising discretion in any way that would be informed by public comment. In addition, this revised rule poses no addition burden on any person, but rather provides a benefit to those who were inadvertently made subject to the PTC Rule, who are now no longer subject to the PTC Rule’s requirements. Therefore, FRA is proceeding directly to this final rule.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing policies and procedures and is not considered significant under Executive Order 12866 or under DOT policies and procedures. The technical changes made in this rule will not increase the costs or alter the benefits associated with this regulation beyond what was originally measured in the cost benefit analysis completed for the PTC Rule. The technical changes will, in fact, reduce the cost of complying with the rule back to the level contemplated when FRA completed its initial cost-benefit analysis. However, this cost reduction has not been specifically calculated. Because these technical amendments and corrections will bring the rule into compliance with FRA’s original cost-benefit analysis, FRA does not believe it necessary to re-calculate the costs and benefits.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. This final rule amends and clarifies existing requirements. Because the technical amendments contained in

the document generally clarify requirements currently contained in the PTC Rule or allow for greater flexibility in complying with the PTC Rule, FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

There are no paperwork requirements associated with this final rule.

Environmental Impact

FRA has evaluated this rule in accordance with its procedures for ensuring full consideration of the environmental impact of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and DOT Order 5610.1c. The rule meets the criteria establishing this as a non-major action for environmental purposes.

Federalism Implications

This final rule will not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. State and local officials were involved in developing the PTC Rule through the Railroad Safety Advisory Committee (RSAC). The RSAC has as permanent members two organizations representing State and local interests: The American Association of State Highway and Transportation Officials and the Association of State Rail Safety Managers. RSAC regularly provides recommendations to the FRA Administrator for solutions to regulatory issues that reflect significant input from its State members. Thus, in accordance with Executive Order 13132, preparation of a Federalism Assessment was not warranted in the PTC Rule and is not warranted for this final rule either.

Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) each Federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal Regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Sec. 201. Section 202 of the Act further requires that "before promulgating any general notice of

proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$120,700,000 or more in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement * * *" detailing the effect on State, local, and tribal governments and the private sector. The rule issued today does not include any mandates, which will result in the expenditure, in the aggregate, of \$120,700,000 or more in any one year, and thus preparation of a statement is not required.

Need for Correction

As published, the PTC Rule contains errors that need to be corrected.

List of Subjects

49 CFR Part 234

Highway safety, Railroad safety.

49 CFR Part 236

Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

■ In consideration of the foregoing, FRA corrects chapter II, subtitle B, of title 49, Code of Federal Regulations as follows:

PART 234—[AMENDED]

■ 1. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 2. Revise § 234.275 to read as follows:

§ 234.275 Processor-based systems.

(a) *Applicable definitions.* The definitions in § 236.903 of this chapter shall apply to this section, where applicable.

(b) *Use of performance standard authorized or required.*

(1) In lieu of compliance with the requirements of this subpart, a railroad may elect to qualify an existing processor-based product under part 236, subpart H of this chapter.

(2) Highway-rail grade crossing warning systems, subsystems, or components that are processor-based and that are first placed in service after June 6, 2005, which contain new or novel technology, or which provide safety-critical data to a railroad signal or train control system that is governed by part 236, subpart H of this chapter, shall also comply with those requirements. New or novel technology refers to a

technology not previously recognized for use as of March 7, 2005.

(3) Products designed in accordance with subparts A through D of this part, which are not in service but are in the developmental stage prior to December 5, 2005 (or for which a request for exclusion was submitted prior to June 6, 2005 pursuant to § 236.911 of this chapter), may be excluded from the requirements of part 236, subpart H of this chapter upon notification to FRA by March 6, 2006, if placed in service by December 5, 2008 (or March 7, 2008 for those products for which a request for exclusion was submitted to FRA prior to June 6, 2005). Railroads may continue to implement and use these products and components from these existing products. A railroad may at any time elect to have products that are excluded made subject to 49 CFR part 236, subpart H, by submitting a Product Safety Plan as prescribed in § 236.913 of this chapter and otherwise complying with part 236, subpart H of this chapter.

(c) *Product safety plan justifications.* The Product Safety Plan (see § 236.903 of this chapter) must explain how the performance objective sought to be addressed by each of the particular requirements of this subpart is met by the product, why the objective is not relevant to the product's design, or how safety requirements are satisfied using alternative means. Deviation from those particular requirements is authorized if an adequate explanation is provided, making reference to relevant elements of the Product Safety Plan, and if the product satisfies the performance standard set forth in § 236.909 of this chapter. (See § 236.907(a)(14) of this chapter.)

(d) *Specific requirements.* The following exclusions from the latitude provided by this section apply:

(1) Nothing in this section authorizes deviation from applicable design requirements for automated warning devices at highway-rail grade crossings in the Manual on Uniform Traffic Control Devices (MUTCD), 2000 Millennium Edition, Federal Highway Administration (FHWA), dated December 18, 2000, including Errata #1 to MUTCD 2000 Millennium Edition dated June 14, 2001 (<http://mutcd.fhwa.dot.gov/>).

(2) Nothing in this section authorizes deviation from the following requirements of this subpart:

- (i) § 234.207(b) (Adjustment, repair, or replacement of a component);
- (ii) § 234.209(b) (Interference with normal functioning of system);
- (iii) § 234.211 (Security of warning system apparatus);
- (iv) § 234.217 (Flashing light units);

- (v) § 234.219 (Gate arm lights and light cable);
- (vi) § 234.221 (Lamp voltage);
- (vii) § 234.223 (Gate arm);
- (viii) § 234.225 (Activation of warning system);
- (ix) § 234.227 (Train detection apparatus)—if a train detection circuit is employed to determine the train's presence;
- (x) § 234.229 (Shunting sensitivity)—if a conventional track circuit is employed;
- (xi) § 234.231 (Fouling wires)—if a conventional train detection circuit is employed;
- (xii) § 234.233 (Rail joints)—if a track circuit is employed;
- (xiii) § 234.235 (Insulated rail joints)—if a track circuit is employed;
- (xiv) § 234.237 (Reverse switch cut-out circuit); or
- (xv) § 234.245 (Signs).
- (e) *Separate justification for other than fail-safe design.* Deviation from the requirement of § 234.203 (Control circuits) that circuits be designed on a fail-safe principle must be separately justified at the component, subsystem, and system level using the criteria of § 236.909 of this chapter.

(f) *Software management control for certain systems not subject to a performance standard.* Any processor-based system, subsystem, or component subject to this part, which is not subject to the requirements of part 236, subpart H of this chapter but which provides safety-critical data to a signal or train control system shall be included in the software management control plan requirements as specified in § 236.18 of this chapter.

PART 236—[AMENDED]

■ 3. The authority citation for part 236 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20501–20505; 28 U.S.C. 2461, note; and 49 CFR 1.49.

■ 4. Amend § 236.913 by revising paragraph (c)(1) to read as follows:

§ 236.913 Filing and approval of PSPs.

* * * * *

(c) * * *

(1) Not less than 180 days prior to planned use of the product in revenue service as described in the PSP or PSP amendment, the railroad shall submit an informational filing to the Associate Administrator for Safety, FRA, 1120 Vermont Avenue, NW., Mail Stop 25, Washington, DC 20590. The informational filing must provide a summary description of the PSP or PSP amendment, including the intended use of the product, and specify the location

where the documentation as described in § 236.917(a)(1) is maintained.

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Issued in Washington, DC on November 17, 2005.

Joseph H. Boardman,

Administrator, Federal Railroad Administration.

[FR Doc. 05–23571 Filed 12–2–05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040830250–5062–03; I.D. 112305B]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustments to management measures; request for comments.

SUMMARY: NMFS announces changes to management measures in the commercial and recreational Pacific Coast groundfish fisheries. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), will allow fisheries to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Effective 0001 hours (local time) December 1, 2005. Comments on this rule will be accepted through January 4, 2006.

ADDRESSES: You may submit comments, identified by I.D. number 112305 by any of the following methods:

- E-mail:

GroundfishInseason5.nwr@noaa.gov. Include I.D. number 112305B in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

- Fax: 206–526–6736, Attn: Carrie Nordeen.

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, Attn: Carrie Nordeen, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen (Northwest Region,

NMFS), phone: 206–526–6144; fax: 206–526–6736; and e-mail:

carrie.nordeen@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *www.gpoaccess.gov/fr/index.html.*

Background information and documents are available at the NMFS Northwest Region website at: *www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Pacific Fishery Management Council's website at: *www.pcouncil.org.*

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) and its implementing regulations at title 50 in the Code of Federal Regulations (CFR), part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The specifications and management measures for 2005 - 2006 were codified in the CFR (50 CFR part 660, subpart G). They were published in the **Federal Register** as a proposed rule on September 21, 2004 (69 FR 56550), and as a final rule on December 23, 2004 (69 FR 77012). The final rule was subsequently amended on March 18, 2005 (70 FR 13118); March 30, 2005 (70 FR 16145); April 19, 2005 (70 FR 20304); May 3, 2005 (70 FR 22808); May 4, 2005 (70 FR 23040); May 5, 2005 (70 FR 23804); May 16, 2005 (70 FR 25789); May 19, 2005 (70 FR 28852); July 5, 2005 (70 FR 38596); August 22, 2005 (70 FR 48897); August 31, 2005 (70 FR 51682); October 5, 2005 (70 FR 58066); October 20, 2005 (70 FR 61063); October 24, 2005 (70 FR 61393); and November 1, 2005 (70 FR 65861).

Acceptable biological catches (ABCs) and optimum yields (OYs) are established for each year. Management measures are established at the start of the biennial period, and adjusted throughout the biennial management period, to keep harvest within the OYs. At the Pacific Council's October 30 - November 4, 2005, meeting in San Diego, California, the Pacific Council's Groundfish Management Team (GMT) considered 2005 catch data and new West Coast Groundfish Observer Program (WCGOP) data and made recommendations to adjust groundfish management measures for December