

Long Island Rail Road's East Side Access Waiver Petition

November 7, 2022 | Question and Answer Session

3:00 pm to 7:00 pm EST

Background

On October 14, 2022, the Long Island Rail Road (LIRR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from a provision of the Federal railroad safety regulations contained at 49 CFR § 236.1005(c), *Hazard detectors*.

Specifically, LIRR is seeking relief from § 236.1005(c) because the Advanced Civil Speed Enforcement System II (ACSES II) Tunnel Collision Avoidance (TCA) package for LIRR's locomotives will not be completed before LIRR's commencement of its East Side Access passenger service and the opening of the Grand Central Madison tunnels. LIRR's petition notes LIRR has existing hazard detection, which protects against the misrouting of oversized trains, within LIRR's cab signaling and automatic train control system. LIRR also describes how its operating practices provide additional protection. LIRR is seeking a temporary waiver from § 236.1005(c) because LIRR's positive train control system, ACSES II, is currently not integrated with, and does not enforce, LIRR's hazard detector, as § 236.1005(c) otherwise requires.

Exhibit A to LIRR's petition describes the exact measures LIRR will use during the period of its temporary waiver, if granted, to ensure oversize trains are not routed to, and do not enter, the tunnels. LIRR also explains that "[a]s soon as the new ACSES software which includes the TCA functionality can be deployed to the LIRR rolling stock fleet, [positive train stop (PTS)] enforcement at permissive aspects for oversized LIRR trains will be provided." LIRR's petition for a waiver also includes a statement of no objection from Amtrak, its applicable tenant railroad.

Reference Documents

- FRA assigned Docket Number FRA-2022-0092 to LIRR's waiver petition.
- LIRR's October 14, 2022, waiver petition is available at the following link: <https://www.regulations.gov/document/FRA-2022-0092-0001>.
- FRA's October 21, 2022, *Federal Register* notice announcing LIRR's waiver petition, summarizing it, and inviting public comment until November 15, 2022, is available at the following link: <https://www.federalregister.gov/documents/2022/10/21/2022-22848/petition-for-waiver-of-compliance>.

Virtual Question-and-Answer (Q&A) Session

Given the urgent nature of this waiver request and the resulting abbreviated comment period, FRA held a virtual question-and-answer session on **November 7, 2022, from 3:00 pm to 7:00 pm EST**. During this session, FRA was available to answer technical questions relating to LIRR's waiver petition. Please see below for a list of attendees and a summary of the questions and answers.

FRA Attendees

Carolyn Hayward-Williams, *FRA, Director, Office of Railroad Systems and Technology*
Gabe Neal, *FRA, Staff Director, Signal, Train Control, and Crossings Division*
Lawrence Warren, *FRA, PTC Specialist*
Cody Ickes, *FRA, PTC Specialist*
Lucinda Henriksen, *FRA, Senior Advisor, Railroad Safety*
Michael Hunter, *FRA, Executive Staff Director*
Stephanie Anderson, *FRA, Attorney Adviser*
Veronica Chittim, *FRA, Attorney Adviser*

LIRR and Metropolitan Transportation Authority (MTA) Attendees

Andrew Arenth, *LIRR, Assistant Chief Engineer, PTC / Signal Program Management*
Nabil Ghaly, *MTA, Oversight*
Chris Gough, *LIRR, Office of Corporate Safety*
Paul Grether, *LIRR, Executive Director, East Side Access Rail Activation*
Timothy Hague
David Male
Linda Messina, *LIRR, Attorney*
Steve Okurowski, *LIRR, Senior Project Manager, PTC*
Jennifer Salazar Marek, *MTA, Construction & Development*
Dave Steckel, *MTA, Press Office*

General Public Attendees

Jared Cassity, *The International Association of Sheet Metal, Air, Rail, and Transportation Workers (SMART)*
DRIVERA
C. Guse, *New York Public Radio*
Chris Hand, *Brotherhood of Railroad Signalmen*
Sam Nasca
Steven Nessen, *New York Public Radio*
Vinnie Tessitore, *Vice Chairman, SMART*

Opening Remarks – FRA provided opening remarks, notified attendees that the session is being recorded, and explained that the purpose of this meeting is to provide a public forum for FRA to answer any technical questions about LIRR’s petition for a waiver of compliance.

Questions and Answers

1. **Question from Steven Nessen (New York Public Radio)** – I have heard from an expert that MTA might not legally need to file a waiver—that the technology is not mandatory. Can you explain whether this technology is mandatory?
 - **FRA’s Response:** When answering this question, FRA virtually displayed the first page of LIRR’s petition, which is publicly available in the [docket](#) and cites to the relevant provision in FRA’s PTC regulations, 49 CFR § 236.1005(c). FRA directly

read the following requirement from 49 CFR § 236.1005(c)(1): “All hazard detectors integrated into a signal or train control system on or after October 16, 2008, shall be integrated into PTC systems required by this subpart; and their warnings shall be appropriately and timely enforced as described in the applicable PTCSP.”

- FRA noted that this requirement contains two elements, neither of which is currently satisfied. First, LIRR’s hazard detector is integrated into LIRR’s cab signal system, but the hazard detector is not yet integrated into LIRR’s PTC system, as required. Second, as LIRR’s hazard detector is not yet integrated into its PTC system, LIRR’s PTC system does not yet appropriately or timely enforce the warnings of LIRR’s hazard detector, as required.

2. **Question from Steven Nessen (New York Public Radio)** – Given the technology is not installed yet, how worried are you that trains will enter Grand Central Madison?

- **FRA’s Response:** At this point in time, FRA cannot advise about that, as the petition is currently under review. However, FRA can summarize the protections afforded by LIRR integrating the hazard detector into its cab signal system. Specifically, LIRR has installed an additional cab signal code that trains must decipher to go into the tunnels. Trains that cannot fit into a tunnel will not be able to decipher that code, and that would bring the train down to restricted speed. That is how the railroad will prevent a train that does not fit into the tunnel from going into the tunnel, during this interim period (until LIRR integrates the hazard detector into its PTC system). FRA is conducting an investigation, and FRA’s Safety Board will evaluate those and other concerns and make a formal decision. Once the changes to the PTC system software are ready, FRA will monitor the railroad’s testing and help ensure that software is appropriately installed and functioning as intended.

3. **Question from Steven Nessen (New York Public Radio)** – For a layman, is it true that, without this hazard detector, there is no automatic way to stop an oversized train from entering the tunnel?

- **FRA’s Response:** LIRR’s current modifications to its wayside signal system and cab signal system and its future modifications to its PTC system will prevent an oversized train from entering the tunnel. Without a hazard detector, it would depend on two humans (the dispatcher and the operator) to prevent an oversized train from entering the tunnels. However, LIRR has already installed a hazard detector in its signal system that will force the train down to restricted speed and will also warn the operator that it is entering the diverging route into the tunnel. In the end, the plan is for the PTC system to automatically prevent an oversized train from entering the tunnels.

4. **Question from Steven Nessen (New York Public Radio)** – As a clarification, the PTC technology that will automatically prevent this is what is not installed yet?

- **FRA’s Response:** That is correct. The waiver is to allow for the signal system to provide that protection, while the PTC system software is being tested and updated.

5. **Question from Chris Hand (Brotherhood of Railroad Signalmen)** – How many trains travel on the affected route daily? How many trains would be routed to the tunnel daily?
- **LIRR's Response:** In terms of the future East Side Access service, there would be 341 regular, weekday LIRR train movements through Harold Interlocking. There will also be additional Amtrak train movements.
6. **Question from Steven Nessen (New York Public Radio)** – Are hazard detectors common to many railroads throughout the country? Do you know how many places have hazard detectors?
- **FRA's Response:** FRA did not immediately have an official number available during the Q&A session. FRA explained that hazard detectors are common to the industry. Examples of hazard detectors include tunnel protection, water detection (where water rises quickly), and slide fences to protect against falling rocks or snow avalanches. One type of hazard detector is a physical device that could warn the railroad. In this case, given the volume of traffic through this interlocking, LIRR is taking the approach to integrate the hazard detector into the signal system and the PTC system.
7. **Question from Steven Nessen (New York Public Radio)** – If the waiver is denied, would FRA stop the East Side Access project from opening in December?
- **FRA's Response:** The waiver petition is currently under evaluation in accordance with FRA's regulations (49 CFR part 211). Part 211 requires an evaluation of whether the waiver is consistent with railroad safety and in the public interest. FRA cannot respond at this time, as the evaluation process is currently ongoing.
8. **Question from Steven Nessen (New York Public Radio)** – What is the timeframe for the decision? The comment period ends November 15th. Could a decision be issued that day?
- **FRA's Response:** FRA will need to review all comments received, as part of FRA's deliberation regarding the waiver. FRA understands the importance of this project, and FRA will seek to issue a decision shortly after the comment period ends. FRA seeks to respond in time to allow LIRR to meet its plans for this project.
9. **Question from Steven Nessen (New York Public Radio)** – Do you know of any times FRA has stopped a project due to the denial of a waiver?
- **FRA's Response:** FRA did not have that specific information available during the Q&A session, but noted there could be continued coordination with FRA's Public Affairs and Mr. Nessen.
10. **Question from Chris Hand (Brotherhood of Railroad Signalmen)** – What protection is in place today? Is it a typical high-wide detector?

- **FRA's Response:** No, it is not a physical detector. The way LIRR is protecting the hazard is via the use of an additional cab signal code. Only the trains that are permitted to go into the tunnel would have the hardware onboard the cab car or locomotive that could decipher the 250 Hz code. You can protect hazards with a physical detection device, or in this case, LIRR is doing it by changing its wayside signal system and ultimately its PTC system.