

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments on the proposed rule change were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

PCX has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>13</sup> Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. As required under Rule 19b-4(f)(6)(iii), PCX provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission. PCX has requested that the Commission waive 30-day delayed operational date provisions contained in the above rule, based upon a representation that accelerating the operative date would allow investors to immediately benefit from execution opportunities on ArcaEx. For this reason, the Commission designates the proposal to be effective and operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>14</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2006-07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-PCX-2006-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2006-07 and should be submitted on or before March 29, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Nancy M. Morris,**  
*Secretary.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**Safety Advisory 2006-01**

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

**ACTION:** Notice of safety advisory.

**SUMMARY:** FRA is issuing Safety Advisory 2006-01, in order to provide the industry additional information on the potential catastrophic failure of certain railroad freight car side frame castings manufactured by National Castings of Mexico's (NCM) Sahagun, Mexico facility and Buckeye Steel Castings' (Buckeye) Columbus, Ohio facility. The purpose of this safety advisory is to recommend that the rail industry carefully inspect these specific side frames when equipped freight cars are in shops or on repair tracks.

**FOR FURTHER INFORMATION CONTACT:** Ronald Newman, Staff Director, Motive Power and Equipment Division (RRS-14), FRA Office of Safety Assurance and Compliance, 1120 Vermont Avenue, NW., Washington, DC 20590, telephone: (202) 493-6241 or Thomas Herrmann, Staff Attorney, FRA Office of Chief Counsel, 1120 Vermont Avenue, NW., Washington, DC 20590, telephone: (202) 493-6036.

**SUPPLEMENTARY INFORMATION:** The standard three (3) piece railroad freight car truck (comprised of a bolster and two side frames) is a critical safety component which transmits the load of the freight car and its lading to the rail and track structure. Any crack or failure detected in critical load bearing areas of these components can result in a serious derailment. There have been six (6) reported in-service failures of side frames manufactured by either NCM or Buckeye. Three of these in-service failures have resulted in a derailment. These include: Car DTTX 723603 on December 8, 2004, on BNSF Train QOIGCHI104 near Ottawa, Kansas; Car DTTX 724557 on December 14, 2004, on CSXT Train Q112-13 near Fostoria, Ohio; and Car UP 28414 on September 10, 2005, on UP Train CCOTSH05 near Hanna, Wyoming.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> The effective date of the original proposed rule change is February 1, 2006 and the effective date of Amendment No. 1 is February 28, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 28, 2006, the date on which PCX submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

Preliminary information indicates that there are three pattern types produced by these manufacturers most susceptible to failure. Most of the side frames that have failed to date had received some

type of welded repair during the manufacturing process. In addition, preliminary analysis has in some cases indicated porosity and possible hardness problems with the involved

castings. The following table identifies the three pattern numbers of side frames manufactured by NCM and Buckeye that may have the potential to fail while in-service.

Manufacturer	Type	Service	AAR designation	Pattern number
Buckeye .....	Barber S-2-D .....	263/286K GRL .....	F-9S-11FN-UA .....	F-10103-B85
NCM .....	Barber S-2-HD .....	263/286K GRL .....	F9S-06BN-UA .....	52120
NCM .....	Barber S-2-E .....	263/286K GRL .....	F9S-14FN-UA .....	53180

FRA has previously issued Safety Advisory 2003-03 and Emergency Order No. 23. See 68 FR 65982 (November 24, 2003) and 69 FR 23850 (April 30, 2004). Both of these documents address the potential safety problems related to certain truck bolsters manufactured at the NCM, Sahagun, Mexico facility.

**Recommended Action:** In recognition of the need to assure safety, FRA recommends that railroads carefully inspect the side frames identified in this advisory when any freight car equipped with the involved side frames is on a

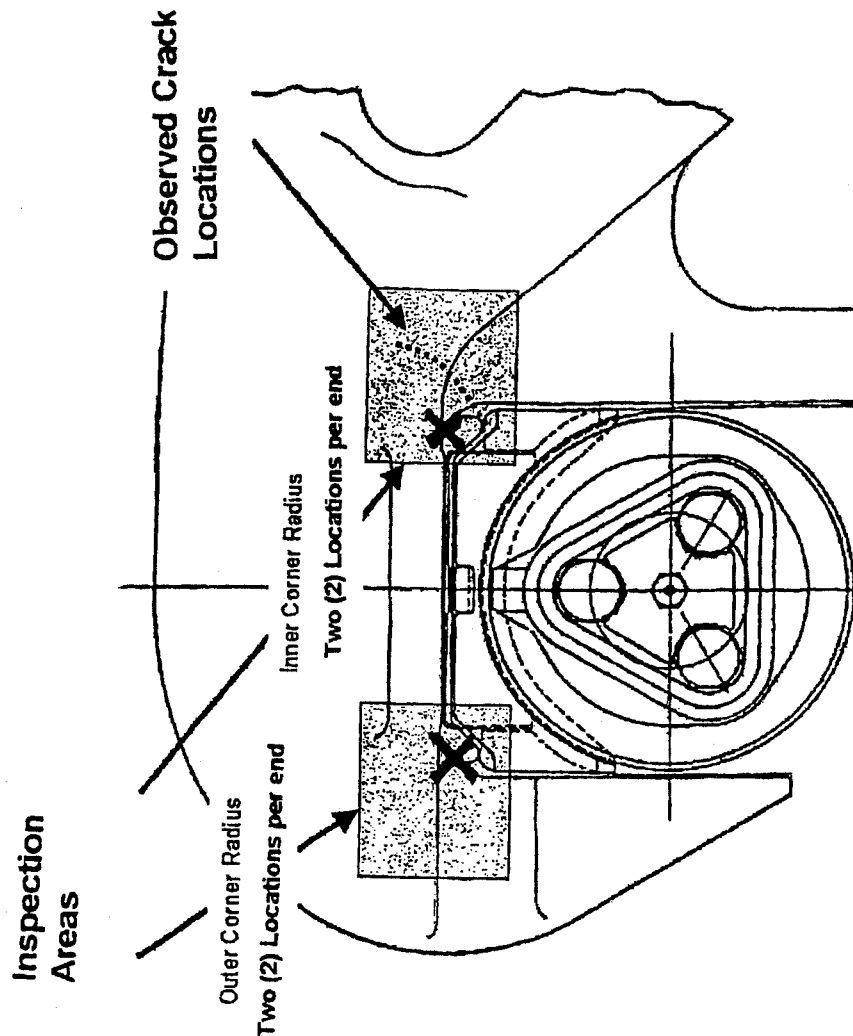
shop or repair track. Railroad freight cars equipped with side frames in these pattern numbers should receive a careful inspection of the side frames at the inner corner radius (spring nest and outboard sides) of the pedestal jaw opening (field or gage side) at the transition from the pedestal roof. There are eight (8) locations per side frame that should receive close visual inspection. (See Figure 1). Any evidence of cracking and/or missing material in the corner radius areas is cause for replacement.

FRA will continue to monitor the rail industry's voluntary action and may consider pursuing other measures to ensure public safety. FRA may modify Safety Advisory 2006-01, issue additional safety advisories, or take other appropriate action necessary to ensure the highest level of safety on the nation's railroads.

Issued in Washington, DC, on March 2, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*



**Fig. 1 Showing Eight Inspection Locations Per Side Frame**

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Safety Advisory 2006-02

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

**ACTION:** Notice of safety advisory.

**SUMMARY:** This safety advisory provides recommended practices for the testing, classification, and reuse of second-hand rail.<sup>1</sup> The purpose of this safety advisory is to reduce the number of rail defects that occur when second-hand rail is used.

**FOR FURTHER INFORMATION CONTACT:** Christopher F. Schulte, Specialist, Track Division, FRA Office of Safety

Assurance and Compliance, 1120 Vermont Avenue, NW, Mail Stop 25, Washington, DC 20590 ([Christopher.Schulte@fra.dot.gov](mailto:Christopher.Schulte@fra.dot.gov) or (202) 493-6251); or Christina McDonald, Trial Attorney, FRA Office of Chief Counsel, 1120 Vermont Avenue, NW, Mail Stop 10, Washington, DC 20590, ([Christina.McDonald@fra.dot.gov](mailto:Christina.McDonald@fra.dot.gov) or (202) 493-6032).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Derailment in Nodaway, Iowa*

On March 17, 2001, Amtrak train No. 5-17, the *California Zephyr*, derailed near Nodaway, Iowa. Amtrak train No. 5-17 consisted of two locomotive units and 16 cars. All but the last five cars derailed. As a result of the derailment, 78 people were injured, including one fatal injury. At the time of the accident, Amtrak train No. 5-17 was operating

over FRA Class 4<sup>2</sup> track belonging to the BNSF Railway (BNSF) Creston Subdivision.

Near MP 419.90, the locomotive engineer experienced a "tugging" sensation in connection with the train's progress and heard a "grinding, screeching, noise." He made an emergency brake application. When the locomotives came to a stop, the engineer realized that the train's cars had uncoupled from the locomotives, and most cars had derailed. The cars were about 1/8 mile behind the stopped locomotives.

A broken rail was discovered at the point of derailment. The broken pieces of rail were reassembled at the scene, and it was determined that they came from a 15-foot, 6-inch section of rail (referred to as a "plug") that had been installed as replacement rail at this location in February 2001. The

<sup>2</sup> Over Class 4 track, the maximum allowable operating speed for freight trains is 60 mph, and the maximum allowable operating speed for passenger trains is 80 mph. See 49 CFR 213.9.

<sup>1</sup> Second-hand rail is sometimes also referred to as relay rail.