



4910-06-P

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **Agency Request for Regular Processing of Collection of Information by the Office of Management and Budget**

**[Docket No. FRA 2017-0002-N-18]**

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

**ACTION:** Notice.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this document provides notice that FRA is submitting an Information Collection Request (ICR) to the Office of Management and Budget (OMB) to collect information on railroads' implementation of positive train control (PTC) systems on a quarterly form entitled the Quarterly PTC Progress Report Form (Form FRA F 6180.165). On June 20, 2016, following the required notice and comment period, including a public meeting with industry stakeholders, OMB approved the Quarterly PTC Progress Report Form (Form FRA F 6180.165) for a period of 12 months, expiring June 30, 2017. After OMB's initial approval, FRA made three minor modifications to Form FRA F 6180.165, as described below. FRA sought public comment on the proposed revisions during a period of 60 days, ending May 15, 2017. FRA requests regular processing and OMB authorization for 3 years to collect the information on revised Form FRA F 6180.165, as identified below, beginning 30 days after publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of

Railroad Safety, Planning and Evaluation Division, RRS-21, FRA, 1200 New Jersey Avenue, SE, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292) or Ms. Kimberly Toone, Office of Information Technology, RAD-20, FRA, 1200 New Jersey Avenue, SE, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6132). These telephone numbers are not toll-free. Comments or questions about any aspect of this ICR should be directed to OMB's Office of Information and Regulatory Affairs, Attn: FRA OMB Desk Officer.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation**

On March 14, 2017, FRA published a notice in the Federal Register seeking public comment on proposed revisions to its Quarterly PTC Progress Report Form (Form FRA F 6180.165 or Form). 82 FR 13717. The PRA and its implementing regulations require Federal agencies to provide 60-days' notice to the public to solicit comment on information collection activities before seeking OMB's approval, reinstatement, or renewal of those activities. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). The comment period closed on May 15, 2017. FRA did not receive any comments in response to its March 14, 2017 notice.

### **II. Background on the Quarterly PTC Reporting Requirement**

The Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act) requires FRA to conduct compliance reviews at least annually to ensure each railroad subject to the statutory mandate to implement a positive train control (PTC) system is complying with its Revised PTC Implementation Plan (PTCIP). 49 U.S.C.

20157(c)(2). To enable FRA to meet this statutory mandate, the PTCEI Act requires railroads to provide information to FRA that FRA determines is necessary to adequately conduct such compliance reviews. 49 U.S.C. 20157(c)(2).

Under its statutory and regulatory investigative authorities, FRA currently requires, and seeks to continue requiring, each railroad subject to the PTC system mandate to submit Quarterly PTC Progress Reports (Form FRA F 6180.165) on its PTC system implementation progress. See 49 U.S.C. 20157(c)(2); see also 49 U.S.C. 20107; 49 CFR 236.1009(h); 49 CFR 1.89. Specifically, in addition to the Annual PTC Progress Report (Form FRA F 6180.166) due each March 31 under 49 U.S.C. 20157(c)(1), railroads must provide Quarterly PTC Progress Reports covering the preceding three-month period and submit the completed Forms to FRA on the dates in the following table until full PTC system implementation is completed:

	Coverage Period	Due Dates for Quarterly Reports
<b>Q1</b>	January 1 – March 31	April 30
<b>Q2</b>	April 1 – June 30	July 31
<b>Q3</b>	July 1 – September 30	October 31
<b>Q4</b>	October 1 – December 31	January 31

Each railroad must submit its quarterly progress reports on Form FRA F 6180.165 using FRA’s Secure Information Repository (SIR) at <https://sir.fra.dot.gov>.

FRA has determined that quarterly reporting is necessary for FRA to effectively monitor industry’s implementation of PTC systems and to meet the statutory mandate to conduct compliance reviews at least annually to ensure each railroad is complying with its Revised PTCIP. See 49 U.S.C. 20157(c)(2). The annual reports (which contain five

more sections than the quarterly reports) are due by March 31 each year under the PTCEI Act and retrospectively describe railroads' PTC system implementation progress for the entire preceding calendar year. The quarterly reports, on the other hand, show FRA individual railroad's PTC system implementation progress in as close to real time as possible for the current calendar year, enabling FRA to identify railroads not on track to meet the core implementation milestones they set in their Revised PTCIPs. FRA specifically chose quarterly reports in lieu of the monthly reports, which OMB previously approved under OMB Control No. 2130-0553 to monitor industry progress implementing PTC systems, to minimize the burden on industry. See 81 FR 28140 (May 9, 2016). The structure of the quarterly report form enables railroads to complete the more comprehensive Annual PTC Progress Reports (Form FRA F 6180.166) in a clear and efficient manner. The frequency of quarterly reporting allows FRA to actively monitor railroads' implementation progress and identify railroad-specific and industry-wide roadblocks and obstacles to full PTC system implementation and to provide technical assistance early enough for such assistance to be effective. The quarterly reports also enable FRA to determine which railroads are at risk of not meeting the statutory deadline for PTC system implementation and the multiple statutory criteria required to obtain FRA approval of a deadline extension beyond December 31, 2018, but no later than December 31, 2020, for certain non-hardware, operational aspects of PTC system implementation. Moreover, the quarterly reports enable FRA to provide the public and Congress with data-driven status reports on industry's progress implementing this critical, life-saving technology four times per year. Because of the quarterly reporting

requirement, FRA has been able to respond to urgent requests from members of Congress and the White House about railroads' up-to-date PTC system implementation progress following certain fatal accidents.

Congress made it clear in the PTCEI Act and the Fixing America's Surface Transportation Act that enforcement is FRA's main oversight tool for ensuring each railroad subject to the PTC system statutory mandate implements a PTC system consistent with its Revised PTCIP and by the new statutory deadline. 49 U.S.C. 20157(e)(1)-(4). FRA needs the quarterly reports to conduct the compliance reviews the PTCEI Act mandates and, when necessary, to initiate well-supported enforcement action against a railroad. In the PTCEI Act, Congress required each railroad to provide detailed implementation information in its Revised PTCIP, including milestones for spectrum acquisition, employee training, and hardware installation, with totals separated by each major hardware category. 49 U.S.C. 20157(a)(2)(A)(iii). The PTCEI Act requires each railroad to comply with its Revised PTCIP, including its milestones, and FRA is authorized to assess a civil penalty for any failure to meet those milestones. 49 U.S.C. 20157(a)(2)(D), (e)(2), 49 CFR 1.89.

By statute, railroads are required to provide FRA with any information FRA deems necessary to adequately conduct its compliance reviews. See 49 U.S.C. 20157(c)(2). PTC systems are required to be implemented on over 60,000 miles of the 140,000-mile U.S. rail network. And, while FRA will perform random audits of PTC system implementation, FRA inspectors cannot feasibly inspect every mile of the U.S. rail network at different points in time to determine where the hardware of PTC systems,

for example, has and has not been installed and to confirm that individual railroads are implementing PTC systems as each stated it would in its statutorily-mandated revised PTCIP. See 49 U.S.C. 20157(a)(2)(D), (c)(2), (e). Therefore, FRA has reasonably determined that Quarterly PTC Progress Reports are necessary for FRA to perform the Congressionally-mandated compliance reviews. And, indeed, as discussed further below in the proposed changes to the Quarterly PTC Progress Report Form, Congress has implicitly agreed with FRA's determination this form is necessary by requesting that FRA collect additional information.

## **II. Proposed Revisions to the Quarterly PTC Progress Report**

On June 20, 2016, OMB approved the Quarterly PTC Progress Report (Form FRA F 6180.165) for a period of one year, expiring on June 30, 2017. The current Quarterly PTC Progress Report Form, as approved through June 30, 2017, can be accessed and downloaded in FRA's eLibrary at:

<https://www.fra.dot.gov/eLib/details/L17365>. The approved quarterly form took into account the Association of American Railroads' (AAR) written comments on behalf of itself and its member railroads; the American Public Transportation Association's (APTA) written comments on behalf of Northeast Illinois Commuter Rail System (Metra), the Utah Transit Authority, the Tri-County Metropolitan Transportation District of Oregon, and the Fort Worth Transportation Authority; and industry stakeholders' comments during FRA's public meeting on April 19, 2016, which included representatives from, and members of, AAR, APTA, the American Short Line and Regional Railroad Association, and several individual railroad representatives. FRA

published minutes from the meeting on [www.regulations.gov](http://www.regulations.gov) under Docket No. FRA 2016-0002. For a summary of the oral and written comments and FRA's responses to the comments, please see 81 FR 28140 (May 9, 2016).

As FRA described in its March 14, 2017, notice, FRA proposes three minor modifications to the Quarterly PTC Progress Report Form (Form FRA F 6180.165, OMB Control No. 2130-0553; OMB Approval Expires June 30, 2017).

First, FRA proposes removing a now inapplicable instruction from page 1 of the quarterly form, which stated,

\*Please note that FRA did not require a Q1 progress report to be submitted in April 2016. For 2016, the Q1 and Q2 reports are both due in the same form on July 31, 2016.

FRA delayed the due date for submitting the first 2016 quarterly report to allow time for the normal 60 days of notice and public comment to FRA and additional 30 days of public comment to OMB while it underwent OMB review as the PRA and its concomitant regulations require. Because that due date extension applied only in 2016, FRA proposes removing that note from page 1 of the form and retaining the standard quarterly due dates below:

	Coverage Period	Due Dates for Quarterly Reports
<b>Q1</b>	January 1 – March 31	April 30
<b>Q2</b>	April 1 – June 30	July 31
<b>Q3</b>	July 1 – September 30	October 31
<b>Q4</b>	October 1 – December 31	January 31

In addition, FRA proposes making the following two changes to Section 1 of the form (Summary Section) to clarify the section and respond to a Congressional request that FRA collect certain additional information:

(i) To ensure clarity and consistent interpretations by respondents, FRA proposes adding instructions to the existing Summary Section row entitled, “Route Miles in Testing or Revenue Service Demonstration,” as a footnote. The current Summary Section in the Quarterly PTC Progress Report requires railroads to provide the following information:

<b>Category</b>	<b>Cumulative Quantity Completed To Date</b>	<b>Total Quantity Required for PTC Implementation</b>
Locomotives Fully Equipped and PTC Operable		
Installation/Track Segments Completed		
Radio Towers Fully Installed and Equipped		
Employees Trained		
Route Miles in Testing or Revenue Service Demonstration		
Route Miles in PTC Operation		

In the Summary Section of the Quarterly PTC Progress Reports railroads have submitted to date, some railroads have improperly listed the same number of miles in the “Route Miles in Testing or Revenue Service Demonstration” and “Route Miles in PTC Operation” fields, under the heading “Cumulative Quantity Completed To Date.” This makes it impossible for FRA to know if the railroad is still conducting PTC testing (i.e., field testing or Revenue Service Demonstration (RSD)) on those route miles or if the railroad is operating the PTC system in revenue service on those route miles. This

prevents FRA from compiling data in its database and using it for the statutorily mandated compliance reviews. To clarify the scope of those two rows and simplify the reporting process, FRA proposes adding the following explanatory instructions as a footnote to the row entitled, “Route Miles in Testing or Revenue Service Demonstration”:

Enter the cumulative number of route miles where PTC technology is currently undergoing field testing or Revenue Service Demonstration. Railroads must only identify in the “Route Miles in Testing or Revenue Service Demonstration” field any route miles that are still currently undergoing PTC field testing or Revenue Service Demonstration (e.g., in a case where FRA granted a railroad provisional revenue service operations authorization for only a portion of its network but the railroad is still conducting field testing or Revenue Service Demonstration elsewhere in its network). Once a railroad has received written authorization from FRA to operate its PTC system in revenue service (through either provisional operations authorization under 49 U.S.C. 20157(h)(2) or PTC System Certification under 49 U.S.C. 20157(h)(1)), the railroad must identify any miles where a PTC system is being operated in revenue service in the “Route Miles in PTC Operation” field. If a railroad is operating the PTC system in revenue service and has completed all field testing and Revenue Service Demonstration, it may write “Complete” in the “Route Miles in Testing or Revenue Service Demonstration” fields.

(ii) In September 2016, when reviewing data collected in the OMB-approved Quarterly PTC Progress Report (Form FRA F 6180.165), staff from the United States Senate Committee on Commerce, Science, and Transportation requested that FRA also collect information to directly show each railroad’s progress towards completing the RSD criteria under 49 U.S.C. 20157(a)(3)(B)(vi)–(vii). Specifically, to receive an extension beyond December 31, 2018, but no later than December 31, 2020, for certain non-hardware, operational aspects of PTC system implementation, a railroad must complete each of the statutory prerequisites under 49 U.S.C. 20157(a)(3)(B), including one

prerequisite that differs depending on whether a railroad is or is not a Class I railroad or Amtrak. 49 U.S.C. 20157(a)(3)(B)(vi)–(vii). For Class I railroads and Amtrak, one of the statutory prerequisites is that the railroad must have “implemented a [PTC] system or initiated [RSD] on the majority of territories, such as subdivisions or districts, or route miles” the railroad owns or controls that are required to have operations governed by a PTC system. 49 U.S.C. 20157(a)(3)(B)(vi). For other railroads (railroads that are not Class I railroads or Amtrak), one of the statutory prerequisites is that the entity must have initiated RSD on at least 1 territory required to have PTC-governed operations, or met any other criteria FRA established. 49 U.S.C. 20157(a)(3)(B)(vii). To be clear, by law, Congress authorizes FRA to establish alternative RSD criteria only for entities that are not Class I railroads or Amtrak. Id. At this time, FRA has established alternative RSD criteria for only one commuter railroad.

The Summary Section in the current Quarterly PTC Progress Report, approved through June 30, 2017, asks railroads to report route miles in “Testing or Revenue Service Demonstration.” However, that does not directly indicate whether or not the railroad has satisfied the above criteria because, for example, those route miles might refer to a combination of route miles in field testing and route miles in RSD, and also it does not provide any information about the number of territories where the railroad has initiated RSD and how many territories are required to have operations governed by a PTC system. Similarly, the drop-down menu in Section 4 regarding the overall current status of track segments has a “Testing” option, which provides only an overview of whether that railroad is currently doing either field testing or RSD in the track segment,

but does not differentiate between field testing and RSD, as there might be various stages of testing occurring in a particular track segment.

Rather than substantially changing the existing Summary Section and Section 4 of the form, and thus requiring railroads to deviate from the procedures and formulas they already have in place for quarterly reporting, FRA proposes simply adding one new row to the Summary Section and leaving the rest of the form and fields unchanged.

Specifically, to address the request from Congressional staff, FRA proposes adding a new row in the Summary Section entitled, “Territories Where Revenue Service Demonstration Has Been Initiated.” The table headings, “Cumulative Quantity Completed To Date” and “Total Quantity Required for PTC Implementation” would remain in place in the Summary Section. FRA proposes adding a footnote after the word “Territories” in the new row to define a territory as “an entire installation/track segment as identified in the railroad’s PTCIP (e.g., a track segment, territory, subdivision, district, etc.),” consistent with 49 U.S.C. 20157(a)(3)(B)(vi), 49 CFR part 236, subpart I, and other footnotes in the quarterly form. FRA estimates the additional burden for this new row would be approximately thirty minutes on average for Class I, Class II, large passenger, and medium passenger railroads and approximately fifteen minutes on average for Class III, terminal, and small passenger railroads. The burden is low because it is a high-level question that would require a railroad to state only the number of territories where it has initiated RSD and the number of territories required to have operations governed by a PTC system, both of which are readily known by and available to respondent railroads.

Finally, FRA has made one additional formatting change, which reduces the length of the form. FRA removed the final page from the 10-page Appendix B, entitled “Additional Rows for Installation/Track Segment Progress – Current Status,” as that page was not necessary for any of the 41 reporting railroads to complete based on the number of railroads’ track segments.

**III. Overview of Information Collection**

The associated collection of information is summarized below.

Title: Quarterly Positive Train Control Progress Report Form.

OMB Control Number: 2130-0553.

Form Number(s): FRA F 6180.165.

Affected Public: Businesses.

Frequency of Submission: On occasion.

Respondent Universe: 41 Railroad Carriers.

Reporting Burden:

Quarterly PTC Progress Report	Respondent Universe	Total Annual Responses	Average Time per Response	Total Annual Burden Hours
Form FRA F 6180.165	41 Railroads	164 Reports/Forms	21.60 hours	3,543 hours

FRA notes that the 21.60-hour estimate is an average for all railroads. FRA estimated the quarterly reporting burden is approximately 40.5 hours for the 11 Class I and large passenger railroads per quarterly form, approximately 27.5 hours for the 11 Class II and medium passenger railroads per quarterly form, and approximately 7.25 hours for the 19 Class III, terminal, and small passenger railroads per quarterly form.

Total Estimated Annual Responses for Form FRA F 6180.165: 164.

Total Estimated Annual Burden for Form FRA F 6180.165: 3,543 hours.

Total Estimated Annual Responses for Entire Information Collection: 147,776.

Total Estimated Annual Burden for Entire Information Collection: 3,126,102.

Status: Regular Review.

For the reasons outlined above, FRA requests regular processing and OMB authorization to collect the information on the revised Quarterly PTC Progress Report Form (Form FRA F 6180.165), 30 days after publication of this notice for a period of 3 years.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501-3520, 49 U.S.C. 20157(c)(2).

John Seguin,

Acting Chief Counsel.

[FR Doc. 2017-11090 Filed: 5/26/2017 8:45 am; Publication Date: 5/30/2017]