



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2020-0004-N-3]

Proposed Agency Information Collection Activities; Comment Request

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

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On December 30, 2019, FRA published a notice providing a 60-day period for public comment on the ICR.

DATES: Interested persons are invited to submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit written comments on the ICR to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via e-mail to OMB at the following address: oira_submissions@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Hodan Wells, Information

Collection Clearance Officer, Office of Railroad Safety, Regulatory Analysis Division, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone: (202) 493-0440); or Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, Federal Railroad Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590 (telephone: (202) 493-6132).

SUPPLEMENTARY INFORMATION:

I. Public Comment Under the PRA

The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On December 30, 2019, FRA published a 60-day notice in the *Federal Register* soliciting public comment on the ICR for which it is now seeking OMB approval. *See* 84 FR 72121.

The 60-day comment period closed on February 28, 2020, and FRA received three sets of comments. First, on December 30, 2019, via e-mail, J.P. Morgan’s Equity Research Division (Airfreight & Surface Transportation) inquired about whether FRA will make railroads’ Statutory Notifications of PTC System Failures (Form FRA F 6180.177) publicly available. The statutory mandate does not require FRA to publicly release the Statutory Notifications of PTC System Failures (Form FRA F 6180.177) that railroads submit under 49 U.S.C. 20157(j)(4). However, if FRA decides in the future to publicly release any failure-related information, FRA would be limited to a certain extent

by any requests for confidentiality that railroads may submit pursuant to 49 CFR 209.11.¹

Second, by e-mail and letter dated February 28, 2020, on behalf of itself and its member railroads, the Association of American Railroads (AAR) submitted comments regarding FRA's proposed changes to the Quarterly PTC Progress Report (Form FRA F 6180.165) and the Annual PTC Progress Report (Form FRA F 6180.166), and FRA's new proposed form, the Statutory Notification of PTC System Failures (Form FRA F 6180.177), implementing the temporary reporting requirement under 49 U.S.C. 20157(j)(4).

Third, by two letters dated February 28, 2020, on behalf of itself and its member organizations, the American Public Transportation Association (APTA) submitted comments regarding FRA's new proposed form, the Statutory Notification of PTC System Failures (Form FRA F 6180.177).²

FRA notes that AAR's and APTA's written comments are generally similar in substance to several Class I railroads' and passenger railroads' verbal comments during FRA's most recent PTC collaboration session on February 5, 2020. In the respective sections regarding each form below, FRA summarizes and responds to AAR's and APTA's comments, including identifying the modifications FRA is amenable to making to each proposed form based on the industry's comments.

¹ The statutory mandate specifically requires FRA to publicly release railroads' Annual PTC Progress Reports (Form FRA F 6180.166). *See* 49 U.S.C. 20157(c)(3). FRA also voluntarily publishes railroads' Quarterly PTC Progress Reports (Form FRA F 6180.165) on FRA's website at <https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports>. In addition, each quarter, FRA posts detailed infographics depicting railroads' self-reported progress toward fully implementing FRA-certified and interoperable PTC systems at <https://www.fra.dot.gov/ptc>.

² FRA acknowledges that APTA submitted two separate letters, both dated February 28, 2020, to Docket No. FRA-2019-0004-N-20 on www.regulations.gov. The letters are mostly identical in substance, except one of the letters contains an additional section with four questions at the end of the letter.

Before OMB decides whether to approve this proposed collection of information, it must provide 30-days' notice for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.10(b), 1320.12(d); *see also* 60 FR 44978, 44983 (Aug. 29, 1995). OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR at 44983. Therefore, respondents should submit any additional comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

II. Proposed Revisions to the Quarterly and Annual PTC Progress Report Forms

On September 24, 2018, OMB approved the Quarterly PTC Progress Report (Form FRA F 6180.165) and the Annual PTC Progress Report (Form FRA F 6180.166) for a period of 18 months, expiring on March 31, 2020. The current Quarterly PTC Progress Report Form and Annual PTC Progress Report Form, as approved through March 31, 2020, can be accessed and downloaded in FRA's eLibrary at:

<https://www.fra.dot.gov/eLib/details/L17365> and

<https://www.fra.dot.gov/eLib/details/L17366>, respectively.³

Railroads' submission of Quarterly PTC Progress Reports (Form FRA F 6180.165) and Annual PTC Progress Reports (Form FRA F 6180.166)—consistent with the reporting requirements under the Positive Train Control Enforcement and Implementation Act of 2015 (PTCEI Act)—enables FRA to effectively monitor railroads' progress toward fully implementing FRA-certified and interoperable PTC systems on the approximately 57,709 route miles subject to the statutory mandate. Moreover, this reporting framework enables FRA to provide the public and Congress with data-driven status updates regularly, which will be especially important throughout 2020, as the statutory deadline for most mandated railroads to fully implement PTC systems is December 31, 2020. Please see Section II of FRA's 60-day notice for additional background about the mandatory Quarterly PTC Progress Report (Form FRA F 6180.165) and Annual PTC Progress Report (Form FRA F 6180.166), under 49 U.S.C. 20157(c)(1) and (2). 84 FR 72121–23 (Dec. 30, 2019).⁴ FRA will request OMB's re-approval of both forms, with the three types of changes described below.

A. Changes to Simplify Both Progress-related Reporting Forms

³ The current, OMB-approved versions of the forms considered prior comments from AAR on behalf of itself and its member railroads; APTA on behalf of the 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 during FRA's public meeting on April 19, 2016. FRA published minutes from the public meeting on www.regulations.gov under Docket No. FRA 2016-0002-N-17. For a summary of past oral and written comments and FRA's responses to the comments, please see 81 FR 28140 (May 9, 2016); 81 FR 65702 (Sept. 23, 2016); and 83 FR 39152 (Aug. 8, 2018).

⁴ As stated on the cover page of the Quarterly PTC Progress Report (Form FRA F 6180.165), "A railroad must submit quarterly reports until a PTC system is fully implemented on all required main lines under 49 U.S.C. 20157 and 49 CFR part 236, subpart I, including a quarterly report for the quarter in which the railroad completes full PTC system implementation." See 49 U.S.C. 20157(c)(2).

Per the industry's and OMB's previous recommendations, FRA has considered ways in which it can phase out certain requirements of the Quarterly PTC Progress Report (Form FRA F 6180.165) and Annual PTC Progress Report (Form FRA F 6180.166), while railroads continue to fully implement their PTC systems on the required main lines. Although many of the specific reporting requirements are statutorily required under 49 U.S.C. 20157(c)(1)(A)–(G), FRA is amenable to making certain sections of both forms optional for most railroads, at this stage.

In the 60-day *Federal Register* notice, FRA initially proposed to make the following three sections of both the Quarterly PTC Progress Report (Form FRA F 6180.165) and the Annual PTC Progress Report (Form FRA F 6180.166) optional for most railroads: Section 2 (“Update on Spectrum”); Section 3.1 (“Locomotive Status”), except the software-related narrative section; and Section 3.3 (“Infrastructure/Wayside Status”). 84 FR at 72123. In AAR’s comments, dated February 28, 2020, AAR requested that FRA also make the following additional sections optional: Section 3.2 (“Infrastructure/Back Office Status”); Section 4 (“Installation/Track Segment Progress”); Section 5 (“Update on Employee Training”); and multiple rows in Section 1 (“Summary”) to the extent the information in those rows “will not significantly change.”

Based on AAR’s comments, in addition to the sections FRA initially identified in the 60-day notice, FRA also agrees to make the following sections optional for certain railroads, for the reasons set forth below: Section 3.2 (“Infrastructure/Back Office Status”); Section 4 (“Installation/Track Segment Progress”); and Section 5 (“Update on Employee Training”). In addition, FRA agrees to remove the row labeled “Radio Towers

Fully Installed and Equipped” from Section 1 (“Summary”) of both progress-related reporting forms.

However, contrary to AAR’s comments, the high-level information railroads provide in Section 1 (“Summary”) is not limited to hardware-specific information, as that section also encompasses railroads’ progress with respect to programming PTC system software and taking other steps necessary to ensure the PTC system is operable. Also, AAR comments that it should be optional to provide spectrum-specific information in Section 1 (“Summary”); however, there are no fields related to spectrum in the summary section of either the Quarterly PTC Progress Report (Form FRA F 6180.165) or the Annual PTC Progress Report (Form FRA F 6180.166).

FRA believes that the revised Section 1 (“Summary”)⁵ is necessary for FRA to understand railroads’ high-level progress and accurately convey railroads’ status in FRA’s quarterly updates on its website and during FRA’s regular briefings to the pertinent Congressional committees. FRA believes that it has sufficiently balanced the industry’s request to phase out progress-related reporting requirements, where possible, and FRA’s need to closely monitor railroads’ progress toward fully implementing FRA-certified and interoperable PTC systems on all required main lines, especially during this period leading up to the statutory December 31, 2020, deadline.

In summary, based on the industry’s comments and feedback, FRA now proposes making the following sections of the Quarterly PTC Progress Report (Form FRA F 6180.165) and Annual PTC Progress Report (Form FRA F 6180.166) optional for most railroads: Section 2 (“Update on Spectrum”); Section 3.1 (“Locomotive Status”), except the software-related narrative section; Section 3.2 (“Infrastructure/Back Office Status”);

⁵ Removing only the row labeled, “Radio Towers Fully Installed and Equipped.”

Section 3.3 (“Infrastructure/Wayside Status”); and Section 5 (“Update on Employee Training”). Specifically, FRA proposes that those sections would be optional for any railroad that previously demonstrated to FRA it had finished acquiring all necessary spectrum, installing all PTC system hardware for the implementation of its PTC system, and/or training the employees required to receive PTC training under 49 CFR 236.1041 through 236.1049, consistent with the governing FRA-approved PTCIP. This would encompass nearly all railroads subject to the statutory mandate that are still in the process of fully implementing their PTC systems—including the railroads currently field testing their PTC systems, conducting revenue service demonstration (RSD) or extending RSD to additional main lines, and conducting interoperability testing with their PTC-required tenant railroads—given that railroads generally needed to finish acquiring spectrum, installing all PTC system hardware, and training necessary employees by December 31, 2018, to qualify for and obtain FRA’s approval of an alternative schedule and sequence by law. *See* 49 U.S.C. 20157(a)(3)(B).

The only railroads for which the above sections—Sections 2, 3.1, 3.2, 3.3, and 5—would remain mandatory are those railroads that are still in the spectrum acquisition, hardware installation, or employee training phases, which is the case for certain railroads that, for example: (A) commenced regularly scheduled intercity passenger or commuter rail service after December 31, 2018, and therefore did not need to qualify for or obtain FRA’s approval of an alternative schedule; (B) are in the process of constructing new main lines subject to the statutory mandate; or (C) have one or more lines that are subject to a temporary main line track exception and must still implement a PTC system. In those three cases, FRA would still need to obtain updates regarding such railroads’

progress toward acquiring all necessary spectrum, installing all necessary PTC system hardware, and training its applicable employees as required under 49 CFR 236.1041 to 236.1049.

In addition, based on AAR's comments, FRA also now proposes to make Section 4 ("Installation/Track Segment Progress") optional but *only* for a railroad that reports in Section 1 ("Summary") of the applicable Quarterly PTC Progress Report (Form FRA F 6180.165) or Annual PTC Progress Report (Form FRA F 6180.166) that its PTC system is governing operations, including RSD, on *all* PTC-mandated route miles as of that reporting period. Section 4 ("Installation/Track Segment Progress") remains mandatory for all other railroads subject to the statutory mandate.

B. Improvement to the Drop-down Menu in Sections 4 and 6 of Both Progress-related Reporting Forms

In Section 4 (entitled "Installation/Track Segment Progress") of both the quarterly form and the annual form, FRA proposes adding a new option to the drop-down menus. Currently, the options include only: "Not Started," "Installing," "Field Testing," "Revenue Service Demonstration," and "Operational/Complete." Given that some railroads are beyond the installation phase, but not yet at the field testing phase on multiple track segments, FRA proposes to add a new option to the drop-down menu, specifically labeled, "Pre-field Testing." That way, such railroads will not need to select "Installing" or "Field Testing," neither of which would accurately represent the actual status of a railroad's specific track segment. This minor revision to the forms will help ensure clearer and more accurate reporting, without imposing an additional reporting burden. For consistency with Section 4, FRA also proposes to update the corresponding drop-down menu in Section 6 (entitled "Update on Interoperability Progress") of both

forms to include the same options: “Not Started,” “Installing,” “Pre-field Testing,” “Field Testing,” “Revenue Service Demonstration,”⁶ and “Operational/Complete.” FRA received no comments on this proposed change.

C. Clarification in Section 6 of Both Progress-related Reporting Forms

In Section 6 (entitled “Update on Interoperability Progress”) of both the quarterly form and the annual form, FRA proposes revising the heading of the last column in the table to state, “Current Tenant Interoperability Status,” instead of “Current Tenant Implementation Status,” to help ensure proper interpretation. For example, at least one commuter railroad has improperly listed the status of a Class I tenant railroad’s progress toward fully implementing a PTC system on the Class I railroad’s own main lines (so as a host railroad), instead of the Class I railroad’s status specifically as a tenant railroad on that commuter railroad’s required main lines. FRA expects that this minor revision might make this heading clearer. FRA received no comments on this proposed change.

III. Proposal for a New Mandatory Form – Statutory Notification of PTC System Failures (Form FRA F 6180.177)

Please see FRA’s 60-day *Federal Register* notice about the default reporting requirement under 49 U.S.C. 20157(j)(4) requiring railroads to notify FRA any time a railroad operating an FRA-certified PTC system “fails to initialize, cuts out, or malfunctions,” and FRA’s authority to establish an alternative reporting deadline (instead of within 7 days of each occurrence) and an alternative reporting location (instead of submitting the notifications to the appropriate FRA region).⁷ See 49 U.S.C. 20157(j)(4);

⁶ Previously, the relevant part of the drop-down menu allowed a host railroad to indicate only that a tenant railroad was generally conducting “testing,” without specifying the stage of testing.

⁷ By law, this temporary reporting requirement under 49 U.S.C. 20157(j)(4) sunsets on approximately December 31, 2021—or more specifically, one year after the last Class I railroad obtains PTC System

49 CFR 1.89; *see also* 84 FR 72121, 72123–26 (Dec. 30, 2019). On February 28, 2020, AAR submitted written comments stating, “AAR appreciates and supports FRA’s proposal to modify, as permitted under 49 U.S.C. section 20157(j)(4), the frequency and location of reporting in order to simplify and ease the burdens of carriers during the applicable Early Adopter period.”

FRA did not receive any comments requesting changes to its proposed two-tiered or bifurcated reporting frequency for this temporary reporting requirement, where the reporting frequency depends on whether or not the host railroad has fully implemented an FRA-certified and interoperable PTC system on all its required route miles.⁸ For detailed information regarding the applicable reporting frequency and deadlines, please see Section IV of FRA’s 60-day notice. 84 FR at 72124–26. AAR’s comments, dated February 28, 2020, also generally express support for the fact that FRA’s web-based form for the Statutory Notification of PTC System Failures (Form FRA F 6180.177) will enable railroads to upload bulk data using a comma-separated values (CSV) file (e.g., FRA’s template Excel spreadsheet saved as a CSV file). AAR states that it “supports this flexibility, which would reduce the railroads’ reporting burden by avoiding the necessity of having to copy the data from a spreadsheet onto FRA’s form.”⁹

Certification from FRA and finishes fully implementing an FRA-certified and interoperable PTC system on all its required main lines. *See* 49 U.S.C. 20157(j).

⁸ One of AAR’s comments, however, asserts that 49 U.S.C. 20157(j)(4) “only addresses reporting by carriers operating a fully certified and implemented PTC system.” That interpretation is not supported by the plain language of the statute. *See* 49 U.S.C. 20157(j)(4); *see also* 84 FR 72121, 72124 (Dec. 30, 2019). Consistent with the statutory canons of construction, FRA interprets the word “implemented” consistently throughout the provisions in the statutory mandate, including 49 U.S.C. 20157(a)(3)(B)(vi) and 49 U.S.C. 20157(j)(4). For example, acknowledging the incremental nature of implementation, the PTCEI Act required Class I railroads and Amtrak to demonstrate they “implemented a [PTC] system or initiated revenue service demonstration on the *majority* of [its PTC-mandated] territories” by December 31, 2018, to qualify for an alternative schedule and sequence with a final deadline not later than December 31, 2020. 49 U.S.C. 20157(a)(3)(B)(vi) (emphasis added).

⁹ With respect to the reporting burden of Form FRA F 6180.177, AAR comments, “Eventually it might take only one hour, but undoubtedly it will take a railroad more than one hour to develop a reporting system.”

Consistent with 49 U.S.C. 20157(j)(4), FRA’s proposed Statutory Notification of PTC System Failures (Form FRA F 6180.177) would require the host railroad to identify the number of times each type of PTC system failure identified in the statutory mandate occurred during the reporting period: any failure to initialize, any cut out, and any malfunction, as defined below. During FRA’s industry meetings to date, railroads have requested clarification regarding the meaning and scope of these statutory terms.

Given that the statutory mandate requires railroads to notify FRA any time an FRA-certified PTC system “fails to initialize, cuts out, or malfunctions,” FRA interprets these terms reasonably broadly and in accordance with their plain language meaning, to encompass the following, for purposes of this temporary reporting requirement:

- *Failure to Initialize:* Any instance when a PTC system fails to activate on a locomotive or train, unless the PTC system successfully activates during a subsequent attempt in the same location or before entering PTC territory. For the types of PTC systems that do not “initialize” by design, a failed departure test is considered a “failure to initialize” for purposes of this reporting requirement, unless the PTC system successfully passes the departure test during a subsequent attempt in the same location or before entering PTC territory.
- *Cut Out:* Any cut out of a PTC system, subsystem, or component en route, including when the PTC system cuts out on its own or a person cuts out the system, unless the cut out was necessary to exit PTC-governed territory and enter non-PTC territory.

However, FRA notes that the default statutory reporting requirement has generally been in effect since October 29, 2015. In addition, many Class I railroads and passenger railroads have demonstrated they already have a reporting system in place and are actively tracking PTC system initialization failures, cut outs, and malfunctions to understand the reliability and performance of their PTC systems and/or generally ensure compliance with 49 CFR part 236, subpart I.

- *Malfunction*: Any instance when a PTC system, subsystem, or component fails to perform the functions mandated under 49 U.S.C. 20157(i)(5), 49 CFR part 236, subpart I, or the applicable host railroad’s PTC Safety Plan.

FRA revised its proposed definitions to incorporate AAR’s and APTA’s feedback in their respective letters, dated February 28, 2020, about the definitions FRA initially proposed in the 60-day notice. *See* 84 FR 72121, 72125 (Dec. 30, 2019). AAR generally stated that certain definitions were ambiguous, so FRA refined its proposed definitions to be more precise yet still sufficiently broad to apply to all types of PTC systems and align with the plain language and scope identified in 49 U.S.C. 20157(j)(4).

For example, consistent with AAR’s and APTA’s comments, FRA eliminated the reference to “initial terminal” from its proposed definition of “failure to initialize,” given AAR’s comment that “there is only one initial terminal but there could be multiple crew changes and multiple initialization opportunities,” and APTA’s comment that “an initial terminal may be different for freight, intercity or commuter operations.” *See* 84 FR at 72125. Also, FRA’s proposed definition of “failure to initialize” set forth above is consistent with AAR’s understanding that “a number of unsuccessful attempts to initialize a particular train by the crew would constitute one initialization failure.”

In addition, AAR’s comments acknowledged that unlike the Interoperable Electronic Train Management System, certain PTC systems, including the Advanced Civil Speed Enforcement System II and Incremental Train Control System, do not actually initialize, so FRA provided examples of how this statutory term may apply to other types of PTC systems in its revised definition, as listed above.

In APTA’s letter, dated February 28, 2020, APTA requests that the scope of the term “cut out” should include only instances when the *onboard* PTC apparatus is *manually* disabled. FRA disagrees and notes that the relevant statutory provision, 49 U.S.C. 20157(j)(4), is not limited only to the onboard PTC subsystem or manual cut outs. FRA acknowledges that APTA’s use of the word “disabling” in its comments is generally consistent with FRA’s use of the phrase “cut out,” but FRA proposes to use the phrase “cut out” as it is a term of art.

Also, in its February 28, 2020, letter, AAR “urges FRA to delete the phrase ‘could prevent’” from the definition of “malfunction” that FRA previously proposed in its 60-day notice, as AAR argues that such a phrase could cause confusion. *See* 84 FR at 72125. Similarly, APTA’s February 28, 2020, comments request that FRA delete the phrase “or could prevent,” on the basis that it could be considered subjective. Accordingly, FRA has eliminated that phrase and proposes the definition set forth above (i.e., any instance when a PTC system, subsystem, or component fails to perform the functions mandated under 49 U.S.C. 20157(i)(5), 49 CFR part 236, subpart I, or the applicable host railroad’s PTC Safety Plan (PTCSP)), which FRA believes is clearer and consistent with the statutory provision. Also, for clarity and precision, FRA expanded its proposed definition of “malfunction” to refer to the applicable host railroad’s PTCSP, in addition to 49 U.S.C. 20157(i)(5) and 49 CFR part 236, subpart I. That approach is also consistent with APTA’s observation, in its comments, that a PTC system must perform in accordance with the governing PTC Development Plan (PTCDP) and PTCSP.¹⁰ As

¹⁰ FRA, however, disagrees with APTA’s comments that suggest “an unintended enforcement” or “an unintended speed enforcement” are not malfunctions, if the “event is consistent with the railroad’s PTCDP.” Class I railroads have explained that an unintended braking event could lead to a derailment or

railroads are aware, FRA’s regulations generally require a PTC system to be “fully operative and functioning in accordance with the applicable PTCSP,” except in limited circumstances. *See, e.g.*, 49 CFR 236.1006(a)–(b), 236.1009(d)(3).

Furthermore, in FRA’s 60-day notice, FRA requested comments about its proposal to require host railroads to identify and categorize the number of PTC system initialization failures, cut outs, and malfunctions by state and subdivision.¹¹ *See* 84 FR at 72125. AAR’s comments, dated February 28, 2020, argue that “[p]roviding data by state or region would be unduly burdensome and is not necessary to achieve FRA’s objective. Railroads do not keep data by state or region. . . . Railroads should report failures by subdivision alone, consistent with other reporting requirements.” Based on AAR’s request and justification, FRA modified its proposed web-based form (Form FRA F 6180.177) to require host railroads to identify the number of PTC system initialization failures, cut outs, and malfunctions by subdivision¹² only (and not by state), which FRA believes will still enable FRA to closely monitor trends in PTC system reliability throughout the country and focus its resources, for example, on any areas where such failures are occurring at a high rate.

Also, based on railroads’ input at industry meetings, FRA proposed in its 60-day notice that a Statutory Notification of PTC System Failures (Form FRA F 6180.177)

another unsafe situation, and such unintended enforcement by the PTC system would indicate that the PTC system malfunctioned in some way.

¹¹ FRA’s 60-day notice acknowledged that absent a breakdown by state and/or subdivision, FRA would require host railroads to identify the number of PTC system initialization failures, cut outs, and malfunctions *per* FRA region, at a minimum. FRA explained that such an approach would retain the same minimum level of geographical information about where such PTC system failures are occurring, as explicitly required under the default reporting requirement under 49 U.S.C. 20157(j)(4).

¹² Or any other categorization a host railroad uses in its timetables, including district, territory, main line, branch, or corridor. FRA recognizes that this specific type of information (i.e., a breakdown by subdivision) is not required under 49 U.S.C. 20157(j)(4), and FRA would be collecting such information under its general authority under 49 CFR 236.1009(h).

would additionally require a host railroad to list a percentage or rate, demonstrating how the occurrences of PTC system initialization failures, cut outs, and malfunctions compare to all operations on that host railroad’s PTC-governed main lines.¹³ *See* 84 FR at 72125. Several railroads previously commented that, without such a percentage or context, the frequency of these failures might otherwise seem high, and a percentage would help convey the actual rate of such failures. In its February 28, 2020, comments, AAR specifically suggests that to “keep the report of PTC system initialization failures, cut outs, and malfunctions in perspective, particularly if comparing individual railroads, it would be useful to normalize results between railroads.” Similarly, in APTA’s letter dated February 28, 2020, APTA requests that FRA identify the applicable denominator(s) to utilize when calculating the rate of PTC system initialization failures, cut outs, and malfunctions.

APTA recommends that the quotient of mean-time/distance-between-failure would be an appropriate measure, if the intent of the percentage field is to monitor a PTC system’s reliability. While FRA agrees that this specific data point is valuable, FRA believes that more tailored denominators would be useful for purposes of the three types of PTC system failures referenced in 49 U.S.C. 20157(j)(4)—i.e., failures to initialize, cut outs, and malfunctions. However, railroads can also provide any additional data or metrics, including the quotient of mean-time/distance-between-failure, in the narrative section of the web-based form.

AAR’s comments recommend two distinct denominators for the three types of PTC system failures identified in 49 U.S.C. 20157(j)(4). FRA agrees with AAR that the

¹³ FRA recognizes that this specific type of information is not required under 49 U.S.C. 20157(j)(4), and FRA would be collecting such information under its general authority under 49 CFR 236.1009(h).

appropriate denominator with respect to initialization failures would be “the number of scheduled attempts at initialization.” In the proposed Statutory Notification of PTC System Failures (Form FRA F 6180.177), FRA now provides a field for host railroads to provide the total number of scheduled attempts at PTC system initialization during the applicable reporting period. As AAR recommends, FRA will calculate the percentage or rate by dividing the host railroad’s number of failures to initialize, as defined above, by the total number of scheduled attempts at PTC system initialization during the reporting period.

With respect to PTC system cut outs and malfunctions, AAR recommends that the appropriate denominator would be “the number of train miles operated with PTC active” and, for arithmetic purposes, suggests expressing the number in thousands of train miles. In its comments, AAR also notes that “AAR’s members would be amenable to including in the report data on PTC train miles.” FRA will include a field in the web-based form for host railroads to provide that raw denominator (i.e., the total number of PTC-required train miles), and FRA will calculate the rate of cut outs and malfunctions, utilizing that raw denominator. FRA believes that providing fields for railroads to enter such raw denominators, instead of percentages or rates, will help ensure FRA accurately interprets railroads’ data, especially when comparing multiple railroads’ data or a single railroad’s data to its own prior notifications of PTC system initialization failures, cut outs, and malfunctions.

In addition, at industry meetings to date, multiple railroads expressed that FRA should not require tenant railroads to submit this failure-related information directly to FRA, but via their host railroads. Accordingly, FRA’s 60-day notice proposed that only

host railroads subject to the statutory mandate (currently 36 host railroads) would submit the Statutory Notification of PTC System Failures (Form FRA F 6180.177), and these notifications would encompass both a host railroad's and its tenant railroad(s)' PTC system initialization failures, cut outs, and malfunctions. *See* 84 FR at 72125–26.

In AAR's comments, dated February 28, 2020, AAR generally expressed opposition to providing "tenant data" and noted that this requirement may be "burdensome, likely requiring host railroads to devote significant employee time to getting that information from their tenants." Specifically, AAR commented, "If FRA is going to require hosts to report tenant data, the agency must impose a clear and direct requirement on tenants to report the desired information to their host railroad." In its comments, APTA also acknowledges that a host railroad would need to obtain "all necessary logs" from its tenant railroads to accurately complete the Statutory Notification of PTC System Failures (Form FRA F 6180.177). FRA notes that an existing regulatory provision, 49 CFR 236.1029(b)(4), would already require a tenant railroad to report a PTC system failure or cut out to "a designated railroad officer of the host railroad as soon as safe and practicable." Also, FRA is aware that several host railroads, including Class I railroads and passenger railroads, already regularly monitor and track tenant railroads' PTC system initialization failures, cut outs, and malfunctions via automatically generated reports and/or via connected PTC system back offices.

Furthermore, AAR specifically "urges FRA to exclude tenant information when reporting percentages," as obtaining "tenant information on the number of miles operated with PTC active would likely be a particularly burdensome and frustrating exercise for host railroads. Finally, any reporting of tenant data by host railroads should be on a

subdivision basis.” Based on AAR’s feedback, FRA proposes to eliminate the percentage column from the section of the proposed Statutory Notification of PTC System Failures (Form FRA F 6180.177) regarding tenant railroads’ PTC system initialization failures, cut outs, and malfunctions. Acknowledging AAR’s specific concern and APTA’s general comments, FRA will instead provide a field for a host railroad to identify the total number of trains that each PTC-required tenant railroad operated on the host railroad’s PTC-governed main lines during the reporting period, instead of requiring a host railroad to provide a tenant railroad’s PTC train miles. Several host railroads have previously acknowledged that they can readily access and compile such high-level data, including the number of train movements during the applicable reporting period, for each PTC-required tenant railroad.

In APTA’s letter, dated February 28, 2020, APTA also inquired about whether the web-based Statutory Notification of PTC System Failures (Form FRA F 6180.177) will be “used for reporting post certification (Annual and Critical anomalies).” The reporting requirement under 49 U.S.C. 20157(j)(4)—as implemented by FRA’s proposed Statutory Notification of PTC System Failures (Form FRA F 6180.177)—applies only to *FRA-certified* PTC systems and is effective only until approximately December 31, 2021.¹⁴ Furthermore, while FRA is open to considering developing a web-based form for purposes of 49 CFR 236.1029(h), *Annual report of system failures*, that permanent regulatory reporting requirement is separate and distinct from FRA’s proposed Statutory

¹⁴ As noted above, the temporary reporting requirement under 49 U.S.C. 20157(j)(4) sunsets on approximately December 31, 2021—or more specifically, one year after the last Class I railroad obtains PTC System Certification from FRA and finishes fully implementing an FRA-certified and interoperable PTC system on all its required main lines. *See* 49 U.S.C. 20157(j).

Notification of PTC System Failures (Form FRA F 6180.177), which is intended to implement only the temporary reporting requirement under 49 U.S.C. 20157(j)(4).

Finally, 49 U.S.C. 20157(j)(4) explicitly requires a railroad to provide in the notification “a description of the safety measures the affected railroad . . . has in place,” so the web-based Statutory Notification of PTC System Failures (Form FRA F 6180.177) contains a field for a host railroad to enter such information. FRA received no comments on this aspect of the proposed form.

IV. Overview of Information Collection

FRA will submit this ICR to OMB for regular clearance as required by the PRA.

Type of Request: Revision of a currently approved information collection.

Title: Positive Train Control and Other Signal Systems (including the Quarterly Positive Train Control Progress Report, the Annual Positive Train Control Progress Report, and the Statutory Notification of Positive Train Control System Failures).¹⁵

OMB Control Number: 2130-0553.

Form(s): FRA F 6180.165, FRA F 6180.166, and FRA F 6180.177.

Affected Public: Businesses.

Frequency of Submission: On occasion (depending on the specific reporting requirement).

Respondent Universe: 35 railroads¹⁶ (including 32 host railroads and 3 tenant-only commuter railroads) for the Quarterly PTC Progress Report (Form FRA F 6180.165)

¹⁵ FRA makes a technical correction to the title of OMB Control Number 2130-0553.

¹⁶ Currently, 42 railroads are directly subject to the statutory mandate to implement a PTC system. However, only 35 railroads are currently subject to these progress-related reporting requirements, given that by law, such reporting requirements no longer apply to the 4 host railroads that fully implemented PTC systems as of December 31, 2018, and 3 other tenant-only commuter railroads that fully implemented their PTC systems to date.

and Annual PTC Progress Report (Form FRA F 6180.166); 36 host railroads for the Statutory Notification of PTC System Failures (Form FRA F 6180.177); and varies for other information collections under OMB Control No. 2130-0553.

Total Estimated Annual Responses: 4,568,393.

Total Estimated Annual Burden: 68,373 hours.

Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$5,533,356.

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)

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