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February 28, 2020

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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

Subject: FRA-2019-0004-N-20

Dear Ms. Wells:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Railroad Administration's (FRA) Notice of Information Collection; request for comment published on December 30, 2019 at 84 FR 72121. In response to this request, APTA offers two sets of comments, one from the I-ETMS commuter railroads, and the other from the E-ATC commuter railroads.

The following comments are exclusively for the I-ETMS variants that commuter rail industry is using and not meant for other Positive Train Control ("PTC") variants such as E-ATC or ACSES-II. The comments are based on FRA's interpretation of various elements and are followed by APTA's comments on behalf of the industry.

- *FRA interpretation of the term "Failure to Initialize"*: Any locomotive or train that departs the initial terminal without being governed by a PTC system.

APTA Comments: What is defined as an initial terminal may be different for freight, intercity or commuter operations. Commuter rail industry interprets "the initial terminal" as outlined in 49 CFR 232.205 (a)(1). Industry requests clarification on what constitutes a reportable initial terminal failure when multiple territories (other railroads) are required for the train movement to the final location.

- *FRA interpretation of the term "Cut Out"*: Any cut out of a PTC system 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.

APTA Comments: The commuter rail industry would like to request deleting the phrase “including when the PTC system cuts out on its own” given that the event would be classified as a malfunction. The current definition of cut out uses “cut out” multiple times. The I-ETMS commuter rail industry recommends the following plain language meaning for the term “cut out”:

Any manual disabling of the onboard PTC apparatus en-route, unless the disabling was necessary to exit PTC governed territory and enter non-PTC territory.

- *FRA interpretation of the term “Malfunction”:* Any failure of a PTC system, subsystem, or component that prevents, or could prevent, the PTC system from performing the functions mandated under 49 U.S.C. 20157(i)(5) and 49 CFR part 236, subpart I.

APTA Comments: If the train experiences an unintended enforcement but remains PTC active and this event is consistent with the railroad’s PTCDP, it should not be counted as a malfunction. The Industry recommends deleting “or could prevent,” because it is subjective.

FRA has 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 railroads’ PTC system initialization failures, cut outs, and malfunctions. FRA seeks comments about how to structure this element of the web-based form in a way that would both minimize the reporting burden and distinctly represent the number of PTC system initialization failures, cut outs, and malfunctions per tenant railroad.

APTA Comments: The FRA notes that tenant requirements to report a failure or cut out are consistent with 49 CFR 236.1029(b)(4), however, the requirement to “report” failures or cut outs does not encompass requirements for tenants to provide logs to the host railroad. To accurately determine reportable incidents subject to the Status Notification of PTC System Failures a host railroad must have all necessary logs to complete the analyses.

FRA interprets 49 CFR 236.1029(h), annual report of system failures, to require reporting annually, by April 16 of each year following the date of required PTC system implementation established by section 20157 of title 49 of the United States Code, each railroad shall provide FRA with a report of the number of PTC failures that occurred during the previous calendar year.

APTA Comments: The above rule does not specify tenant or host railroad, but rather, each railroad. FRA verbally has stated they interpret this as requiring either the host or tenant must provide the failure reporting. Since the tenants do not have access to the failure reporting form, and tenants are unable to fully investigate host wayside or host BOS failures, the industry would like clarity on host or tenants’ responsibilities for reporting failures to the FRA.

The following comments are exclusively for the E-ATC variants that commuter rail industry is using and not meant for other PTC variants such as I-ETMS or ACSES-II. The comments are based on FRA's interpretation of various elements and are followed by APTA's comments on behalf of the industry.

- *FRA Interpretation of the term "Malfunction"*: Any failure of a PTC system, subsystem, or component that prevents, or could prevent, the PTC system from performing the functions mandated under 49 U.S.C. 20157(i)(5) and 49 CFR part 236, subpart I.

APTA Comments: If an E-ATC equipped train experiences an unintended speed enforcement and this event is consistent with the railroad's PTCDP, it should not be considered as a reportable malfunction. Only failures that actually prevent the system from performing those functions mandated under 49 U.S.C. 20157(i)(5) and 49 CFR part 236, subpart I should be reported as malfunctions. Industry recommends deleting "or could prevent," because it is subjective.

If you have any questions regarding this letter, please contact APTA's Senior Director of Engineering, Mr. Narayana Sundaram, at nsundaram@apta.com or (202) 496-4813.

Sincerely,



Paul P. Skoutelas
President and Chief Executive Officer