

as part of an overall system safety plan approved by the Associate Administrator.

(e) A railroad providing existing high-speed passenger service may request in its PTCSP that the Associate Administrator excuse compliance with one or more requirements of this section upon a showing that the subject service has been conducted with a high level of safety.

§ 236.1009 Procedural requirements.

(a) *PTC Implementation Plan (PTCIP).*

(1) By April 16, 2010, each host railroad that is required to implement and operate a PTC system in accordance with § 236.1005(b) shall develop and submit in accordance with § 236.1011(a) a PTCIP for implementing a PTC system required under § 236.1005. Filing of the PTCIP shall not exempt the required filings of an NPI, PTCSP, PTCDP, or Type Approval.

(2) After April 16, 2010, a host railroad shall file:

(i) A PTCIP if it becomes a host railroad of a main line track segment for which it is required to implement and operate a PTC system in accordance with § 236.1005(b); or

(ii) A request for amendment (“RFA”) of its current and approved PTCIP in accordance with § 236.1021 if it intends to:

(A) Initiate a new category of service (i.e., passenger or freight); or

(B) Add, subtract, or otherwise materially modify one or more lines of railroad for which installation of a PTC system is required.

(3) The host and tenant railroad(s) shall jointly file a PTCIP that addresses shared track:

(i) If the host railroad is required to install and operate a PTC system on a segment of its track; and

(ii) If the tenant railroad that shares the same track segment would have been required to install a PTC system if the host railroad had not otherwise been required to do so.

(4) If railroads required to file a joint PTCIP are unable to jointly file a PTCIP in accordance with paragraphs (a)(1) and (a)(3) of this section, then each railroad shall:

(i) Separately file a PTCIP in accordance with paragraph (a)(1);

(ii) Notify the Associate Administrator that the subject railroads were unable to agree on a PTCIP to be jointly filed;

(iii) Provide the Associate Administrator with a comprehensive list of all issues not in agreement between the railroads that would prevent the subject railroads from jointly filing the PTCIP; and

(iv) Confer with the Associate Administrator to develop and submit a PTCIP mutually acceptable to all subject railroads.

(b) *Type Approval.* Each host railroad, individually or jointly with others such as a tenant railroad or system supplier, shall file prior to or simultaneously with the filing made in accordance with paragraph (a) of this section:

(1) An unmodified Type Approval previously issued by the Associate Administrator in accordance with § 236.1013 or § 236.1031(b) with its associated docket number;

(2) A PTCIP requesting a Type Approval for:

(i) A PTC system that does not have a Type Approval; or

(ii) A PTC system with a previously issued Type Approval that requires one or more variances;

(3) A PTCSP subject to the conditions set forth in paragraph (c) of this section, with or without a Type Approval; or

(4) A document attesting that a Type Approval is not necessary since the host railroad has no territory for which a PTC system is required under this subpart.

(c) *Notice of Product Intent (NPI).* A railroad may, in lieu of submitting a PTCDP, or referencing an already issued Type Approval, submit an NPI describing the functions of the proposed PTC system. If a railroad elects to file an NPI in lieu of a PTCDP or referencing an existing Type Approval with the PTCIP, and the PTCIP is otherwise acceptable to the Associate Administrator, the Associate Administrator may grant provisional approval of the PTCIP.

(1) A provisional approval of a PTCIP, unless otherwise extended by the Associate Administrator, is valid for a period of 270 days from the date of

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approval by the Associate Administrator.

(2) The railroad must submit an updated PTCIP with either a complete PTCDP as defined in § 236.1013(a), an updated PTCIP referencing an already approved Type Approval, or a full PTCSP within 270 days after the “Provisional Approval.”

(i) Within 90 days of receipt of an updated PTCIP that was submitted with an NPI, the Associate Administrator will approve or disapprove of the updated PTCIP and notify in writing the affected railroad. If the updated PTCIP is not approved, the notification will include the plan’s deficiencies. Within 30 days of receipt of that notification, the railroad or other entity that submitted the plan shall correct all deficiencies and resubmit the plan in accordance with this section and § 236.1011, as applicable.

(ii) If an update to a “Provisionally Approved” PTCIP is not received by the Associate Administrator by the end of the period indicated in this paragraph, the “Provisional Approval” given to the PTCIP is automatically revoked. The revocation is retroactive to the date the original PTCIP and NPI were first submitted to the Associate Administrator.

(d) *PTCSP and PTC System Certification.* The following apply to each PTCSP and PTC System Certification.

(1) A PTC System Certification for a PTC system may be obtained by submitting an acceptable PTCSP. If the PTC system is the subject of a Type Approval, the safety case elements contained in the PTCDP may be incorporated by reference into the PTCSP, subject to finalization of the human factors analysis contained in the PTCDP.

(2) Each PTCSP requirement under § 236.1015 shall be supported by information and analysis sufficient to establish that the requirements of this subpart have been satisfied.

(3) If the Associate Administrator finds that the PTCSP and supporting documentation support a finding that the system complies with this part, the Associate Administrator may approve the PTCSP. If the Associate Administrator approves the PTCSP, the railroad shall receive PTC System Certifi-

cation for the subject PTC system and shall implement the PTC system according to the PTCSP.

(4) A required PTC system shall not:

(i) Be used in service until it receives from FRA a PTC System Certification; and

(ii) Receive a PTC System Certification unless FRA receives and approves an applicable:

(A) PTCSP; or

(B) Request for Expedited Certification (REC) as defined by § 236.1031(a).

(e) *Plan contents.* (1) No PTCIP shall receive approval unless it complies with § 236.1011. No railroad shall receive a Type Approval or PTC System Certification unless the applicable PTCDP or PTCSP, respectively, comply with §§ 236.1013 and 236.1015, respectively.

(2) All materials filed in accordance with this subpart must be in the English language, or have been translated into English and attested as true and correct.

(3) Each filing referenced in this section may include a request for full or partial confidentiality in accordance with § 209.11 of this chapter. If confidentiality is requested as to a portion of any applicable document, then in addition to the filing requirements under § 209.11 of this chapter, the person filing the document shall also file a copy of the original unredacted document, marked to indicate which portions are redacted in the document’s confidential version without obscuring the original document’s contents.

(f) *Supporting documentation and information.* (1) Issuance of a Type Approval or PTC System Certification is contingent upon FRA’s confidence in the implementation and operation of the subject PTC system. This confidence may be based on FRA-monitored field testing or an independent assessment performed in accordance with § 236.1035 or § 236.1017, respectively.

(2) Upon request by FRA, the railroad requesting a Type Approval or PTC System Certification must engage in field testing or independent assessment performed in accordance with § 236.1035 or § 236.1017, respectively, to support the assertions made in any of the plans submitted under this subpart. These assertions include any of the plans’

content requirements under this subpart.

(g) *FRA conditions, reconsiderations, and modifications.* (1) As necessary to ensure safety, FRA may attach special conditions to approving a PTCIP or issuing a Type Approval or PTC System Certification.

(2) After granting a Type Approval or PTC System Certification, FRA may reconsider the Type Approval or PTC System Certification upon revelation of any of the following factors concerning the contents of the PTCDP or PTCSP:

(i) Potential error or fraud;

(ii) Potentially invalidated assumptions determined as a result of in-service experience or one or more unsafe events calling into question the safety analysis supporting the approval.

(3) During FRA's reconsideration in accordance with this paragraph, the PTC system may remain in use if otherwise consistent with the applicable law and regulations and FRA may impose special conditions for use of the PTC system.

(4) After FRA's reconsideration in accordance with this paragraph, FRA may:

(i) Dismiss its reconsideration and continue to recognize the existing FRA approved Type Approval or PTC System Certification;

(ii) Allow continued operations under such conditions the Associate Administrator deems necessary to ensure safety; or

(iii) Revoke the Type Approval or PTC System Certification and direct the railroad to cease operations where PTC systems are required under this subpart.

(h) *FRA access.* The Associate Administrator, or that person's designated representatives, shall be afforded reasonable access to monitor, test, and inspect processes, procedures, facilities, documents, records, design and testing materials, artifacts, training materials and programs, and any other information used in the design, development, manufacture, test, implementation, and operation of the system, as well as interview any personnel:

(1) Associated with a PTC system for which a Type Approval or PTC System

Certification has been requested or provided; or

(2) To determine whether a railroad has been in compliance with this subpart.

(i) *Foreign regulatory entity verification.* Information that has been certified under the auspices of a foreign regulatory entity recognized by the Associate Administrator may, at the Associate Administrator's sole discretion, be accepted as independently Verified and Validated and used to support each railroad's development of the PTCSP.

(j) *Processing times for PTCDP and PTCSP.*

(1) Within 30 days of receipt of a PTCDP or PTCSP, the Associate Administrator will either acknowledge receipt or acknowledge receipt and request more information.

(2) To the extent practicable, considering the scope, complexity, and novelty of the product or change:

(i) FRA will approve, approve with conditions, or deny the PTCDP within 60 days of the date on which the PTCDP was filed;

(ii) FRA will approve, approve with conditions, or deny the PTCSP within 180 days of the date on which the PTCSP was filed;

(iii) If FRA has not approved, approved with conditions, or denied the PTCDP or PTCSP within the 60-day or 180-day window, as applicable, FRA will provide the submitting party with a statement of reasons as to why the submission has not yet been acted upon and a projected deadline by which an approval or denial will be issued and any further consultations or inquiries will be resolved.

EFFECTIVE DATE NOTE: At 79 FR 49717, Aug. 22, 2014, § 236.1009 was amended by revising paragraph (a)(5), effective Oct. 21, 2014. For the convenience of the user, the revised text is set forth as follows:

§ 236.1009 Procedural requirements.

(a) * * *

(5) Each railroad filing a PTCIP shall report annually, on the anniversary of its original PTCIP submission, and until its PTC system implementation is complete, its progress towards fulfilling the goals outlined in its PTCIP under this part, including progress towards PTC system installation pursuant to § 236.1005 and onboard PTC apparatus installation and use in PTC-equipped

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track segments pursuant to §236.1006, as well as impediments to completion if each of the goals.

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§236.1011 PTC Implementation Plan content requirements.

(a) Contents. A PTCIP filed pursuant to this subpart shall, at a minimum, describe:

- (1) The functional requirements that the proposed system must meet;
- (2) How the PTC railroad intends to comply with §§236.1009(c) and (d);
- (3) How the PTC system will provide for interoperability of the system between the host and all tenant railroads on the track segments required to be equipped with PTC systems under this subpart and:
 - (i) Include relevant provisions of agreements, executed by all applicable railroads, in place to achieve interoperability;
 - (ii) List all methods used to obtain interoperability; and
 - (iii) Identify any railroads with respect to which interoperability agreements have not been achieved as of the time the plan is filed, the practical obstacles that were encountered that prevented resolution, and the further steps planned to overcome those obstacles;
- (4) How, to the extent practical, the PTC system will be implemented to address areas of greater risk to the public and railroad employees before areas of lesser risk;
- (5) The sequence and schedule in which track segments will be equipped and the basis for those decisions, and shall at a minimum address the following risk factors by track segment:
 - (i) Segment traffic characteristics such as typical annual passenger and freight train volume and volume of poison- or toxic-by-inhalation (PIH or TIH) shipments (loads, residue);
 - (ii) Segment operational characteristics such as current method of operation (including presence or absence of a block signal system), number of tracks, and maximum allowable train speeds, including planned modifications; and

(iii) Route attributes bearing on risk, including ruling grades and extreme curvature;

(6) The following information relating to rolling stock:

- (i) What rolling stock will be equipped with PTC technology;
- (ii) The schedule to equip that rolling stock by December 31, 2015;
- (iii) All documents and information required by §236.1006; and
- (iv) Unless the tenant railroad is filing its own PTCIP, the host railroad's PTCIP shall:
 - (A) Attest that the host railroad has made a formal written request to each tenant railroad requesting identification of each item of rolling stock to be PTC system equipped and the date each will be equipped; and
 - (B) Include each tenant railroad's response to the host railroad's written request made in accordance with paragraph (a)(6)(iv)(A) of this section;

(7) The number of wayside devices required for each track segment and the installation schedule to complete wayside equipment installation by December 31, 2015;

(8) Identification of each track segment on the railroad as mainline or non-mainline track. If the PTCIP includes an MTEA, as defined by §236.1019, the PTCIP should identify the tracks included in the MTEA as main line track with a reference to the MTEA;

(9) To the extent the railroad determines that risk-based prioritization required by paragraph (a)(4) of this section is not practical, the basis for this determination; and

(10) The dates the associated PTCDP and PTCSP, as applicable, will be submitted to FRA in accordance with §236.1009.

(b) Additional Class I railroad PTCIP requirements. Each Class I railroad shall include:

(1) In its PTCIP a strategy for full deployment of its PTC system, describing the criteria that it will apply in identifying additional rail lines on its own network, and rail lines of entities that it controls or engages in joint operations with, for which full or partial deployment of PTC technologies is appropriate, beyond those required to be