Dated: July 22, 2013.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1241

[Docket No. EP 706]

Reporting Requirements for Positive Train Control Expenses and Investments

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is amending its rules to require rail carriers that submit to the Board R–1 reports that identify information on capital and operating expenditures for Positive Train Control (PTC) to separately report those expenses so that they can be viewed both as component parts of, as well as separately from, other capital investments and expenses. PTC is an automated system designed to prevent train-to-train collisions and other accidents. Rail carriers with traffic routes that carry passengers and/or hazardous toxic-by-inhalation (TIH) or poisonous-by-inhalation (PIH) materials, as so designated under federal law, must implement PTC according to federal legislation. Pursuant to the notice of proposed rulemaking published in the **Federal Register** on October 13, 2011, we are adopting supplemental schedules to the R–1 to require financial disclosure with respect to PTC to help inform the Board and the public about the specific costs attributable to PTC implementation.

DATES: This rule is effective on September 19, 2013.

FOR FURTHER INFORMATION CONTACT: Paul Aguiar, (202) 245–0323. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Rail carriers must file with the Board an annual report containing ''an account, in as much detail as the Board may require, of the affairs of the rail carrier.'' 49 U.S.C. 11145(b)(1). As authorized by this provision, the Board requires large (Class I) [1] rail carriers to submit annual reports, known as R–1 reports. 49 CFR 1241.11.[2] The R–1 reports contain information about finances and operating statistics for each railroad. Currently, PTC expenditures are incorporated into the R–1 under the category of ''capital investments and expenses;'' however, PTC expenditures are not reported separately.

PTC is a system designed to prevent train-to-train collisions, over-speed derailments, incursions into established work zone limits, and the movement of a train through a switch left in the wrong position. 49 U.S.C. 20157(i)(3). PTC systems may include digital data link communications networks, positioning systems, on-board computers on locomotives, throttle-brake interfaces on locomotives, wayside interface units at switches and wayside detectors, and control center computers.[3] The Rail Safety Improvement Act of 2008 (RSIA) requires Class I rail carriers to implement PTC by December 31, 2015, on mainlines where intercity rail passenger transportation or commuter rail passenger transportation is regularly scheduled, and/or on mainlines over which TIH or PIH, as designated in 49 CFR 171.8, 173.115, and 173.132, are transported. 49 U.S.C. 20157(a)(1).[4] In complying with the RSIA, rail carriers are expected to make expenditures related to installation, operation, and maintenance of PTC.

On October 13, 2010, the Union Pacific Railroad Company (UP), a Class I rail carrier, filed a petition requesting that the Board institute a rulemaking proceeding to adopt supplemental schedules that would require Class I carriers to separately identify PTC expenditures in annual R–1 reports to the Board. Various parties filed comments supporting and opposing UP's petition. In *Reporting Requirements for Positive Train Control Expenses & Investments,* EP 706 (STB served Feb. 10, 2011), the Board instituted a rulemaking proceeding in response to UP's petition, but the Board made no determination about the merits of UP's specific proposal and stated that it would address the arguments raised by the parties in their filings in a subsequent decision. On October 13, 2011, the Board served a Notice of Proposed Rulemaking (*PTC NPRM*) announcing proposed changes to its reporting rules to supplement the R–1 with details of the expenditures attributable to the installation, operation, and maintenance of PTC systems. The Board explained that the proposed ''PTC Supplement,'' which would separately identify PTC-related expenses from the R–1 filings currently required, would provide it with important information that would help identify transportation industry changes that may require attention by the agency and would assist the Board in preparing financial and statistical summaries and abstracts to provide itself, Congress, other government agencies, the transportation industry, and the public with transportation data useful in making regulatory policy and business decisions.

The new rule will require a PTC Supplement [5] to be filed along with each carrier's R–1 annual report.[6] The supplement will provide for PTC versions of schedules 330 (road property and equipment improvements), 332 (depreciation base and rates—road property and equipment), 335 (accumulated depreciation), 352B (investment in railroad property), and 410 (railway operating expenses) containing dollar amounts that reflect only the amounts attributable to PTC for the filing year. The PTC Supplement will also contain PTC versions of schedules 700 (mileage operated at close of year), 710 (inventory of equipment), 710S (unit cost of equipment installed during the year), and 720 (track and traffic conditions). Railroads will also

[1] The Board designates three classes of freight railroads based upon their operating revenues, for three consecutive years, in 1991 dollars, using the following scale: Class I—$250 million or more; Class II—less than $250 million but more than $20 million; and Class III—$20 million or less. These operating revenue thresholds are adjusted annually for inflation. 49 CFR part 1201, 1–1. Adjusted for inflation, the revenue threshold for a Class I rail carrier using 2012 data is $452,653,248. Today, there are seven Class I carriers.

[2] Information about the R–1 report, including the schedules discussed in this rulemaking, past R–1 reports, and a blank R–1 form, is available on the Board's Web site. STB Industry Data, *http://www.stb.dot.gov/stb/industry/econ_reports.html.*

[3] The Federal Railroad Administration (FRA) provides more information online. Federal Railroad Administration, Positive Train Control, *http://www.fra.dot.gov/Page/P0152* (last visited Aug. 6, 2013).

[4] We note that in a 2012 report to Congress, the FRA indicated that it was not likely that all PTC implementation under the statute would be completed by the 2015 deadline, and made a series of recommendations to Congress on how to address emerging issues on implementation. FRA, *FRA Report to Congress: Positive Train Control: Implementation Status, Issues, and Impacts* (2012), *available at http://www.fra.dot.gov/eLib/Details/L03718* (last visited Aug. 13, 2013). *See also Rail Safety: Preliminary Observations on Federal Rail Safety Oversight & Positive Train Control Implementation Before the S. Comm. on Commerce, Science, & Transp.,* 113th Cong. 12–17 (2013) (statement of Susan A. Fleming, Dir. Physical Infrastructure Issues, Gov't Accountability Office), *available at http://www.gao.gov/assets/660/655298.pdf* (last visited Aug. 13, 2013).

[5] The PTC schedules are provided in Appendix A.

[6] The currently established R–1 will not change.

report, by footnote in each supplement schedule, PTC-related expenditures for passenger-only service not otherwise captured in the individual schedules to allow the Board to understand fully the railroads' PTC expenditures. In addition to separating capital expenses and operating expenses incurred by the railroad for PTC, the respondent entity will include by footnote disclosure the value of funds from non-government and government transfers, including grants, subsidies, and other contributions or reimbursements, used or designated to purchase or create PTC assets or to offset PTC costs.[7]

The American Chemistry Council and the Chlorine Institute (collectively, ACC/CI) jointly filed opening comments in response to the rules proposed in the *PTC NPRM.* UP and the Association of American Railroads (AAR) also filed opening comments. These same parties also filed reply comments.[8] We have considered the parties' arguments and will adopt final rules, accordingly. We address below the comments received on the *PTC NPRM.* The final rules are in full below.

Nature of PTC-related costs. ACC/CI argue that the Board should not adopt the PTC Supplement because the Board has not provided sufficient guidance about which PTC-related costs may be recorded, and how they should be recorded.[9] ACC/CI argue that a lack of guidance on how to separate PTC-related expenses from non-PTC expenses will result in inconsistent reporting, and speculate that, for example, one railroad might report as a PTC-related expense the entire cost of a PTC-equipped locomotive, while another might report as PTC-related only the expense of PTC equipment on the locomotive.[10] ACC/CI also claim that the potential for inconsistencies is shown in PTC implementation plans filed by carriers with the FRA, citing the differences among the carriers' FRA reports.[11]

AAR and UP reply that the rules at 49 CFR Part 1201 Subpart A—*Uniform System of Accounts,* independent auditing of the R–1, and the Board's monitoring of that auditing provide sufficient guidance and assurance that PTC-related expenses will be properly reported.[12] ACC/CI state that the comments of AAR and UP show that carrier accounting practices vary, citing AAR's comment that it will be ''difficult to decide'' on the appropriate PTC portion of maintenance expenses for wayside devices that also supply power to non-PTC equipment.[13] However, ACC/CI also state on reply that because UP is the only individual carrier that filed comments on the *PTC NPRM,* the record does not show the full diversity of carrier accounting practices.[14]

With respect to ACC/CI's argument that there is insufficient guidance on recording of PTC-related costs, the Board's Uniform System of Accounts (USOA) and the auditing process provide sufficient assurance of proper supplement reporting. The Board will address any questions railroads have about application of the USOA to the PTC supplement. If a railroad proposes an accounting treatment that varies from the USOA, Board review and approval is required. The example that ACC/CI give of potential improper reporting related to a PTC-equipped locomotive is not a realistic example of improper reporting because even if a railroad were to report an entire PTC-equipped locomotive as a PTC expense, the auditing process would address such a misallocation. ACC/CI also give an example of how carriers have reported PTC-related expenses differently in their ''PTC implementation plans,'' which they are required to file with the FRA indicating the sequence and schedule on which each railroad will install PTC equipment.[15] Specifically, ACC/CI note that railroads have chosen to include information on wayside devices in different sections of their reports.[16] ACC/CI do not explain why this or other differences among the carriers' FRA reports are significant or why the differences indicate potential problems with the PTC Supplement. ACC/CI do not indicate whether the FRA reports were subject to auditing as the PTC Supplement will be. While ACC/CI claim that the filings of AAR and UP show variations in carrier accounting practices, ACC/CI cite only one statement involving wayside devices by AAR to support the claim. However, with its statement about wayside devices, AAR merely argues that allocation of operating costs to the appropriate locations in PTC schedule 410 is a more difficult, and therefore more time-consuming, task than other PTC-related reporting and requests that mandatory filing of PTC schedule 410 be delayed.[17] AAR does not argue that carriers have insufficient guidance to make the allocations, and, as discussed below, mandatory reporting will not begin until the 2013 R–1 filings are due in 2014. Railroads should therefore have sufficient time to address this issue. The Board's Uniform System of Accounts and the auditing process will provide sufficient assurance of proper reporting, although some reporting tasks may be more time consuming than others.

Tracking benefits. ACC/CI argue that the Board should also require carriers to report any benefits of PTC, some of which, they argue, are clear.[18] ACC/CI claim that recording PTC costs but not benefits is a lopsided treatment that ignores the foreseeability of PTC benefits. ACC/CI express concern that carriers will place the burden of paying for PTC on TIH shippers and passenger rail, while, they argue, PTC benefits a wide range of shippers as well as the railroads.[19]

ACC/CI offer two approaches to measuring PTC benefits.[20] First, they suggest that currently reported performance measures be split into subsets of segments with and without PTC, and that ''[t]he relative changes in performance measures between the two groups could then be used to tease out productivity gains attributable to PTC.''[21] Second, they suggest new measures, such as car miles per locomotive unit mile, carloads per train start, or carloads per crew start, to assess the extent to which PTC and related train management software allow more efficient use of equipment and personnel.[22] In reply, UP states that it would not oppose a separate proceeding to address the benefits from PTC, but UP opposes broadening this proceeding to require the reporting of benefits from PTC because it will add complications and delay.[23] UP argues the railroads are incurring measurable costs to install PTC now, while calculating benefits from PTC, which will occur in the future, would be speculative and complex.[24] UP claims that ACC/CI's proposals on how to measure PTC benefits are impractical and

[7] *See* App. A, Table Footnote: PTC Grants.

[8] UP also joins the comments of AAR on both opening and reply. UP Opening 2 n.1; UP Reply 2 n.1.

[9] ACC/CI Opening 4–6.

[10] *Id.* at V.S. Crowley & Mulholland 8.

[11] *Id.*

[12] AAR Reply 4–5; UP Reply 4–5.

[13] ACC/CI Reply 2 (citing AAR Opening 9 n.12).

[14] ACC/CI Reply 2.

[15] ACC/CI Opening, V.S. Crowley & Mulholland 6.

[16] *Id.* at 8.

[17] *See* AAR Opening 9 n.12.

[18] ACC/CI Opening 6, V.S. Crowley & Mulholland 14–15. ACC/CI also append two reports by L.E. Peabody & Associates, Inc., and claim that the reports support the argument that PTC has system-wide benefits. ACC/CI Opening 3, Attachment 2, Attachment 3.

[19] ACC/CI Opening 2–3; ACC/CI Reply 4.

[20] ACC/CI Opening, V.S. Crowley & Mulholland 15.

[21] *Id.*

[22] *Id.*

[23] UP Reply 5–6.

[24] *Id.* at 5.

underdeveloped.[25] AAR makes similar arguments for why ACC/CI's proposal should not be adopted, and claims that studies show that the benefits to railroads from PTC will be small in relation to costs.[26] On reply, ACC/CI, citing UP's statement that it ''could provide information about TIH traffic in a PTC version of schedule 755'' (which collects operating statistics), argue that UP and AAR's proposals to include a PTC schedule that collects operating statistics shows that the carriers' objective is to recover PTC costs from TIH shippers.[27]

We will not adopt ACC/CI's proposal. We considered a similar request in *PTC NPRM,* slip op. at 4–5, and, as the Board concluded there, we also conclude here that ACC/CI have not shown that the request to track benefits is practical or warranted at this time. While carriers state that they are incurring costs now to meet the 2015 implementation deadline, any efficiencies that arise will occur after implementation. Moreover, identifying the costs associated with implementing PTC appears to be relatively straightforward, and the revised rules represent a viable approach to supplement the R–1 and capture this data. By contrast, it is not clear how, at this point, we would identify those productivity gains that may arise as a result of PTC investments.

Abuse of reporting rules. ACC/CI propose that the Board not adopt the PTC Supplement because of the potential that the supplement will enable over-recovery of PTC costs from shippers.[28] Citing the Board's statement that failure to adopt the PTC Supplement will not deprive carriers of the opportunity to recover PTC costs, *PTC NPRM,* slip op. at 4 n.8, ACC/CI argue that carriers may still seek to recover legitimate costs without the PTC Supplement, and that failure to adopt the rule would therefore not injure carriers.[29] ACC/CI also claim that the benefits of reporting are speculative and slight.[30] They argue that the railroads' reason for seeking the PTC Supplement is to facilitate cost recovery and to enable double or triple recovery from shippers.[31] ACC/CI cite *Rail Fuel Surcharges,* EP 661, slip op. at 10–11 (STB served Jan. 26, 2007), where the Board found that certain fuel surcharges were ''double dipping'' and therefore an unreasonable practice for the proposition that the PTC Supplement may facilitate similar carrier actions in relation to PTC costs.[32]

AAR and UP reply that, as noted by the Board in the *PTC NPRM,* slip op. at 4 n.8, carriers may seek to recover PTC costs regardless of whether the Board adopts the PTC Supplement and that this proceeding will not determine whether or how the Board uses the data in proceedings.[33] AAR notes that the Board can investigate any claims of abuse.[34]

We disagree that the PTC Supplement will facilitate abuse by carriers. Because PTC reporting will be audited by the Board using the same processes currently in place for other Board reporting requirements, we have no reason to conclude that adding PTC reporting requirements would result in the railroads' over-recovery of PTC expenses. Further, as noted in *PTC NPRM,* slip op. at 4 n.8, carriers may seek to recover PTC costs regardless of the outcome of this rulemaking, and ACC/CI do not adequately explain how the PTC Supplement would enable abuse. Finally, as explained in *PTC NPRM,* slip op. at 3–4, we believe that the PTC Supplement will provide important information about current expenditures. Therefore, we conclude that the Board should begin collecting information on PTC costs now to identify transportation industry changes as they arise and to be prepared to provide interested parties with data useful in making regulatory policy and business decisions.

PTC grants. AAR and UP filed comments on the proposal in the *PTC NPRM* to collect information about PTC grants.[35] They argue that the footnote schedule should not be adopted because any grants would not be part of a railroad's net capital expenditures, and that the grants footnote is therefore unnecessary to separate PTC expenditures from total expenditures.[36] UP suggests, in the alternative, that the Board modify the proposal to require a carrier to disclose a transfer if the carrier includes the value of the transfer in its road and equipment property and depreciation schedules.[37] AAR's alternative suggestion is for the Board to require carriers to file the information in a separate report that, on the request of the carrier and approval by the Board, would remain confidential in order to protect sensitive security-related and commercial information.[38]

UP claims that the information sought by the grants footnote is available from public sources, and to the extent that it is not, reporting it in the R–1 would be inappropriate, as the Board stated in the *PTC NPRM,* slip op. at 4, that confidential filing of the supplemental PTC schedules is unnecessary.[39] Similarly, AAR proposes that if the Board chooses to require the grants footnote, the Board modify that footnote to protect potentially sensitive information by (1) requiring the ''location of the project funded'' information only at a state or regional level for projects not identified by FRA grant number and (2) allowing carriers to petition on a case-by-case basis for treatment of information as confidential.[40] Finally, AAR requests that the Board clarify what constitutes a ''government transfer,'' argues that the term should be limited to direct grants from departments or agencies of government, and claims that the term should exclude Amtrak or other quasi-public entities.[41]

We will adopt the proposal to require the grants footnote, and incorporate several recommendations offered by commenters, described below. This additional information will help the Board monitor the financing of PTC installation. The Board is aware that funds received by grant are not part of carriers' capital expenditures.

We also conclude that AAR and UP have not shown that the grants footnote will collect sensitive information, and therefore we will not eliminate the footnote on that basis or adopt the proposal to obtain the information through a separate, confidential filing. As UP points out, much of the information is available from public sources. The Board and public will find it informative to have the grant information related to each railroad aggregated on that railroad's PTC Supplement. However, recognizing that sufficiently detailed geographic information might reveal confidential information, we will adopt AAR's proposal to require that carriers provide the ''location of the project funded'' information only at a state or regional level for projects not identified by FRA grant number.[42]

[25] *Id.* at 6.

[26] AAR Reply 5–7.

[27] ACC/CI Reply 3 (citing UP Opening 12).

[28] ACC/CI Opening 7–8.

[29] *Id.* at 7.

[30] *Id.*

[31] *Id.* at 7–8.

[32] *Id.*

[33] AAR Reply 7–8; UP Reply 7.

[34] AAR Reply 8.

[35] AAR Opening 11–13; UP Opening 12–14.

[36] AAR Opening 12; UP Opening 12–13.

[37] UP Opening 13–14.

[38] AAR Opening 12.

[39] UP Opening 13 n.26.

[40] AAR Opening 13.

[41] *Id.*

[42] We will leave to individual states to determine whether any state-specific versions of the PTC Supplement implemented by their agencies will reveal sensitive information, and if so, to

We will also modify the language in the grants footnote schedule to address AAR's request that we clarify what grants must be reported. However, as we wish to receive the full scope of information available to inform the Board and the public, we will not adopt AAR's proposal to limit the sources of grants that must be reported to government agencies and departments. To clarify this and to make the change regarding project locations, we will modify the footnote language to state:

''In addition to separating capital expenses and operating expenses incurred by the railroad for PTC, the respondent entity shall include by footnote disclosure here the value of funds received from non-government and government transfers to include grants, subsidies, and other contributions or reimbursements that the respondent entity used to purchase or create PTC assets or to offset PTC costs. These amounts represent non-railroad monies that the respondent entity used or designated for PTC and would provide for full disclosure of PTC costs on an annual basis. This disclosure shall identify the nature and location of the project by FRA identification, if applicable. If FRA identification is not applicable, the disclosure shall identify the location at the state or regional level.''

See App. A, Table Footnote: PTC Grants. The final rule reflects corresponding changes.[43] *See* Regulatory Text below.

Operating statistics. In the *PTC NPRM,* slip op. at 5, the Board stated that it did not believe that a PTC schedule 755, which would collect information on PTC-related carloads, car-miles, and train-miles, would aid the Board in tracking expenditures made for PTC implementation at this time. However, the Board invited parties to comment on the issue. *Id.* at 5–6. AAR and UP argue that the Board should adopt a PTC schedule 755 because such statistics would be useful if the Board decides to modify the Uniform Railroad Costing System (URCS) regarding hazardous materials transportation costs.[44] AAR and UP argue that the operating statistics would inform the Board about the impacts of PTC and be useful in regulatory decision making.[45] They also argue that the burden will be on the carriers to submit the information, and that the carriers are willing to do so.[46]

We will not add a PTC schedule 755. As the Board explained in the *PTC NPRM,* the PTC Supplement's purpose is to collect information on PTC expenditures. AAR and UP offered no compelling justification for collecting the additional information. If the Board needs the information for changes to URCS or other purposes, it can seek the information at that time.

PTC schedule 352B. The Board stated in the *PTC NPRM,* slip op at 5, that the proposed supplement would include a PTC version of schedule 352B. AAR and UP note that PTC schedule 352B was not included in the *PTC NPRM* appendix that provided the proposed schedules.[47] PTC schedule 352B was mistakenly omitted from the *PTC NPRM* appendix and will be included in the final version of the PTC Supplement as shown in Appendix A.

PTC schedule 710S. The information reported on PTC schedule 710S, unit cost of equipment installed during the year, is: class of equipment, number of units, total weight, total cost, and method of acquisition. AAR and UP argue that the Board should not require a PTC schedule 710S because it would result in the duplication of information gathered by PTC schedule 330 (annual expenditures on property and equipment) and PTC schedule 710 (inventory of owned and leased equipment).[48] Alternatively, UP requests that the Board clarify what additional information it seeks from a PTC schedule 710S.[49]

PTC Schedule 710S is not duplicative, and we will include a PTC schedule 710S to determine PTC locomotive costs on a unit basis. PTC schedule 710S will gather unit cost information on locomotives and passenger train cars, while PTC schedule 710 will capture the number of units, and PTC schedule 330 will capture aggregate costs.

Grace period. AAR proposes that the Board allow a 90-day grace period following the filing of the R–1 for railroads to file the PTC Supplement.[50] AAR argues that preparation of the R–1 is time consuming for carriers, and that the grace period may be necessary for carriers to complete the supplement.[51]

We will not provide for a 90-day grace period. A grace period is not necessary, as the R–1 and the supplement are both computer generated. Given that much of the supplemental information will already be contained in the R–1 in aggregate form, the railroads' accounting systems should be able to be modified to capture or separate this information from the current R–1 reporting. AAR has not shown that carriers need additional time to complete the PTC Supplement.

Beginning of mandatory reporting. AAR and UP propose to delay mandatory filing of PTC schedule 410, which will collect operating expenses, until the 2014 calendar year.[52] AAR claims, and UP agrees, that because PTC-related operating expenses are unlikely to be incurred before PTC systems are in operation, allowing carriers additional time to develop systems for capturing PTC operating expenses would benefit carriers and the Board.[53] This is because, AAR argues, PTC-related operating expenses are more difficult to capture than PTC-related capital expenditures.[54] AAR gives the example of wayside devices; it claims it will be simple to identify the costs of adding PTC equipment to a wayside device, but more difficult to determine the proper allocation of maintenance activity costs that apply to the entire wayside device.[55] AAR also states that carriers must address more accounts when determining operating expenses.[56] AAR and UP suggest that carriers be allowed to file PTC schedule 410 on a voluntary basis for calendar years before 2014.[57]

We will not provide for delayed filing of the PTC schedule 410, and we will require carriers to file the full PTC Supplement with their next R–1 filings (this will be the filings regarding 2013, which will be due in 2014). We recognize that any PTC operating expenses may be minimal until carriers begin to use the PTC systems, but carriers can include PTC schedule 410 showing zero dollars of operating expenses. The minimal nature of current PTC operating statistics should ease the difficulties AAR and UP claim may occur in completing PTC schedule 410. Carriers have had ample notice of the new rule and time to develop compliance methods.

Voluntary reporting of calendar years before 2013. AAR and UP request that the Board allow carriers to voluntarily file PTC Supplements for prior calendar years.[58] We will permit carriers to

appropriately address that issue. *See* AAR Opening 6 n.8.

[43] In addition, in the final rule, we replace the word ''will'' with ''shall'' to make it clear that the information is required. The final rule states: ''The supplement *shall* include PTC-related expenditures for passenger-only service not otherwise captured in the individual schedules.'' *See* Regulatory Text below (emphasis added).

[44] AAR Opening 14; UP Opening 11–12.

[45] AAR Opening 14; UP Opening 11.

[46] AAR Opening 14; UP Opening 12.

[47] AAR Opening 4; UP Opening 10 n.23.

[48] AAR Opening 9 n.11; UP Opening 10 n.23.

[49] UP Opening 10 n.23.

[50] AAR Opening 10–11.

[51] *Id.*

[52] AAR Opening 9–10; UP Opening 14.

[53] AAR Opening 9–10; UP Opening 14.

[54] AAR Opening 9–10.

[55] *Id.* at 9 n.12.

[56] *Id.*

[57] *Id.* at 10; UP Opening 14.

[58] AAR Opening 10; UP Opening 3, 14.

voluntarily file PTC Supplements for the years 2008–2012. This information will be useful to fully inform the Board and the public about PTC expenditures. Because the RSIA was enacted in 2008, that is the earliest year for which carriers may voluntarily report.

Review of reporting requirements. AAR proposes that the Board provide for a mandatory reevaluation of the PTC Supplement within one year after the full implementation of PTC.[59] AAR suggests that such a review would be useful to reevaluate the PTC Supplement in light of experience. We will not adopt this proposal. The Board can undertake such a review any time at its discretion should experience demonstrate that it would be helpful.

Paperwork Reduction, Regulatory Flexibility, and Environmental Certifications

In the *PTC NPRM,* published in the **Federal Register** at 76 FR 63582 on October 13, 2011, the Board sought comments pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3549, and Office of Management and Budget (OMB) regulations at 5 CFR 1320.11, regarding: (1) Whether this collection of information, as modified in the proposed rule, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate. Comments regarding the necessity, utility, and clarity of the information collection were received and are addressed above. No comments concerning the Board's burden estimates were received.

The proposed collection was submitted to OMB for review as required under the PRA, 44 U.S.C. 3507(d), and 5 CFR 1320.11. OMB withheld approval pending submission of the final rule. We are today submitting the collection contained in this final rule to OMB for approval. Once approval is received, we will publish a notice in the **Federal Register**. Unless renewed, OMB approval of this collection, including (if approved) the modifications here, expires on August 31, 2015. This collection (Class I Railroad Annual Report) has been assigned control number 2140–0009. The display of a currently valid OMB control number for this collection is required by law. Under the PRA and 5 CFR 1320.11, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. 5 U.S.C. 601–604. Under § 605(b), an agency is not required to perform an initial or final regulatory flexibility analysis if it certifies that the proposed or final rules will not have a ''significant impact on a substantial number of small entities.''

Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop. Ass'n* v. *Conner,* 553 F.3d 467, 478, 480 (7th Cir. 2009). An agency has no obligation to conduct a small entity impact analysis of effects on entities that it does not regulate. *United Dist. Cos.* v. *FERC,* 88 F.3d 1105, 1170 (DC Cir. 1996).

The rule changes adopted here will not have a significant economic impact upon a substantial number of small entities, within the meaning of the RFA. The reporting requirements are applicable only to Class I rail carriers, which, under the Board's regulations, have annual carrier operating revenues of $250 million or more in 1991 dollars (adjusted for inflation using 2012 data, the revenue threshold for a Class I rail carrier is $452,653,248). Class I carriers generally do not fall within the Small Business Administration's definition of a small business for the rail transportation industry.[60] Therefore, the Board certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The rules set forth below are adopted as final rules.

2. Notice of this decision will be published in the **Federal Register**. The final rules will be effective on September 19, 2013.

3. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration.

List of Subjects in 49 CFR part 1241

Railroads, Reporting and recordkeeping requirements.

Decided: August 13, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey. Commissioner Mulvey dissented with a separate expression.

Jeffrey Herzig,

Clearance Clerk.

Commissioner Mulvey, dissenting:

I disagreed with the decision to propose the rules that the Board makes final today because I believed that doing so was premature. Nothing in this record has led me to a different conclusion. In *Class I Railroad Accounting and Financial Reporting—Transportation of Hazardous Materials,* Docket No. EP 681, the Board is considering whether and how it should update its railroad reporting requirements and the Uniform Railroad Costing System to better capture the operating costs of transporting hazardous materials. Yet in this decision, the Board begins to answer the ''how'' question without first determining ''whether'' it should even do so in the first place. The Board's decision to put the proverbial cart before the horse will likely create uncertainty and confusion. On the one hand, the Board will be requiring carriers to submit very specific segregated data on PTC-related expenditures but, on the other hand, we have given stakeholders no clear rule on how such data may be used in Board proceedings, particularly in rate reasonableness cases.

The question of whether the substantial cost of PTC installation should be borne by all shippers proportionally or only by TIH shippers (or something in between) is important. The Board took comments on this issue more than three years ago and still has

[59] AAR Opening 11.

[60] The Small Business Administration's Office of Size Standards has established a size standard for rail transportation, pursuant to which a line-haul railroad is considered small if its number of employees is 1,500 or less, and a short line railroad is considered small if its number of employees is 500 or less. 13 CFR 121.201 (industry subsector 482).

yet to propose rules to resolve it. The Board should have first resolved the cost allocation issue head-on and then used that resolution to guide any new reporting requirements. Accordingly, I respectfully dissent.

For the reasons set forth in the preamble, the Surface Transportation Board amends part 1241 of title 49, chapter X, subchapter C, of the Code of Federal Regulations as follows:

PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

■ 1. The authority citation for part 1241 continues to read as follows:

Authority: 49 U.S.C. 11145.

■ 2. Amend § 1241.11 by adding paragraph (b) to read as follows:

§ 1241.11 Annual reports of class I railroads.

(a) * * *

(b) Expenditures and certain statistical information, as described below, for Positive Train Control (PTC) installation, maintenance, and operation shall be separately identified in a supplement to the Railroad Annual Report Form R–1 and submitted with the Railroad Annual Report Form R–1. This supplement shall identify PTC-related expenditures on road property and equipment improvements, depreciation of road property and equipment, accumulated depreciation, investment in railway property, and railway operating expenses. The supplement shall also identify the total mileage on which carriers install PTC and the number of locomotives equipped with PTC. The supplement shall include PTC-related expenditures for passenger-only service not otherwise captured in the individual schedules. In addition to separating capital expenses and operating expenses incurred by the railroad for PTC, the respondent entity shall include the value of funds received from non-government and government transfers to include grants, subsidies, and other contributions or reimbursements that the respondent entity used to purchase or create PTC assets or to offset PTC costs.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix A—PTC Versions of Schedules: 330, 332, 335, 352B, 410, 700, 710, 710S, and 720

BILLING CODE 4915–01–P

PTC Supplement

Road Initials: Year

330. ROAD PROPERTY AND EQUIPMENT AND IMPROVEMENTS TO LEASED PROPERTY AND EQUIPMENT
(Dollars in Thousands)

Line No.	Cross No.	Account (a)	Balance at Beginning of year (b)	Expenditures during the year for original road & equipment & road extensions (c)	Expenditures during the year for purchase of existing lines, reorganizations, etc. (d)	Line No.
1		(2) Land for transportation purposes				1
2		(3) Grading				2
3		(4) Other right-of-way expenditures				3
4		(5) Tunnels and subways				4
5		(6) Bridges, trestles and culverts				5
6		(7) Elevated structures				6
7		(8) Ties				7
8		(9) Rail and other track material				8
9		(11) Ballast				9
10		(13) Fences, snowsheds and signs				10
11		(16) Station and office buildings				11
12		(17) Roadway buildings				12
13		(18) Water stations				13
14		(19) Fuel stations				14
15		(20) Shops and enginehouses				15
16		(22) Storage warehouses				16
17		(23) Wharves and docks				17
18		(24) Coal and ore wharves				18
19		(25) TOFC/COFC terminals				19
20		(26) Communications systems				20
21		(27) Signals and interlockers				21
22		(29) Power plants				22
23		(31) Power transmission systems				23
24		(35) Miscellaneous structures				24
25		(37) Roadway machines				25
26		(39) Public improvements - construction				26
27		(44) Shop machinery				27
28		(45) Power plant machinery				28
29		Other lease/rentals				29
30		TOTAL EXPENDITURES FOR ROAD				30
31		(52) Locomotives				31
32		(53) Freight train cars				32
33		(54) Passenger train cars				33
34		(55) Highway revenue equipment				34
35		(56) Floating equipment				35
36		(57) Work equipment				36
37		(58) Miscellaneous equipment				37
38		(59) Computer systems & word processing equipment				38
39		TOTAL EXPENDITURES FOR EQUIPMENT				39
40		(76) Interest during construction				40
41		(80) Other elements of investment				41
42		(90) Construction work in progress				42
43		GRAND TOTAL				43

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Road Initials: **Year**

330. ROAD PROPERTY AND EQUIPMENT AND IMPROVEMENTS TO LEASED PROPERTY AND EQUIPMENT - (Continued)

(Dollars in Thousands)

Line No.	Cross No.	Expenditures for additions during the year (e)	Credits for property retired during the year (f)	Net changes during the year (g)	Balance at close of year (h)	Line No.
1						1
2						2
3						3
4						4
5						5
6						6
7						7
8						8
9						9
10						10
11						11
12						12
13						13
14						14
15						15
16						16
17						17
18						18
19						19
20						20
21						21
22						22
23						23
24						24
25						25
26						26
27						27
28						28
29						29
30						30
31						31
32						32
33						33
34						34
35						35
36						36
37						37
38						38
39						39
40						40
41						41
42						42
43						43

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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Road Initials: Year

332. DEPRECIATION BASE AND RATES - ROAD AND EQUIPMENT OWNED AND LEASED FROM OTHERS

(Dollars in Thousands)

Line No.	Account (a)	OWNED AND USED Depreciation Base 1/1 At beginning of year (b)	OWNED AND USED Depreciation Base 12/1 At close of year (c)	OWNED AND USED Annual composite rate % (d)	LEASED FROM OTHERS Depreciation Base At beginning of year (e)	LEASED FROM OTHERS Depreciation Base At close of year (f)	LEASED FROM OTHERS Annual composite rate % (g)	Line No.
	ROAD							
1	(3) Grading							1
2	(4) Other right-of-way expenditures							2
3	(5) Tunnels and subways							3
4	(6) Bridges, trestles and culverts							4
5	(7) Elevated structures							5
6	(8) Ties							6
7	(9) Rail and other track material							7
8	(11) Ballast							8
9	(13) Fences, snowsheds and signs							9
10	(16) Station and office buildings							10
11	(17) Roadway buildings							11
12	(18) Water stations							12
13	(19) Fuel stations							13
14	(20) Shops and enginehouses							14
15	(22) Storage warehouses							15
16	(23) Wharves and docks							16
17	(24) Coal and ore wharves							17
18	(25) TOFC/COFC terminals							18
19	(26) Communications systems							19
20	(27) Signals and interlockers							20
21	(29) Power plants							21
22	(31) Power transmission systems							22
23	(35) Miscellaneous structures							23
24	(37) Roadway machines							24
25	(39) Public improvements - construction							25
26	(44) Shop machinery							26
27	(45) Power plant machinery							27
28	All other road accounts							28
29	Amortization (other than def. projects)							29
30	TOTAL ROAD							30
	EQUIPMENT							
31	(52) Locomotives							31
32	(53) Freight train cars							32
33	(54) Passenger train cars							33
34	(55) Highway revenue equipment							34
35	(56) Floating equipment							35
36	(57) Work equipment							36
37	(58) Miscellaneous equipment							37
38	(59) Computer systems & WP equipment							38
39	TOTAL EQUIPMENT							39
40	GRAND TOTAL			NA			NA	40

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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Road Initials: **Year**

335. ACCUMULATED DEPRECIATION - ROAD AND EQUIPMENT OWNED AND USED

(Dollars in Thousands)

Line No.	Cross Check	Account (a)	Balance at beginning of year (b)	CREDITS TO RESERVE During the year: Charges to operating expenses (c)	CREDITS TO RESERVE During the year: Other credits (d)	DEBITS TO RESERVE During the year: Retirements (e)	DEBITS TO RESERVE During the year: Other debits (f)	Balance at close of year (g)	Line No.
		ROAD							
1		(3) Grading							1
2		(4) Other right-of-way expenditures							2
3		(5) Tunnels and subways							3
4		(6) Bridges, trestles and culverts							4
5		(7) Elevated structures							5
6		(8) Ties							6
7		(9) Rail and other track material							7
8		(11) Ballast							8
9		(13) Fences, snowsheds and signs							9
10		(16) Station and office buildings							10
11		(17) Roadway buildings							11
12		(18) Water stations							12
13		(19) Fuel stations							13
14		(20) Shops and enginehouses							14
15		(22) Storage warehouses							15
16		(23) Wharves and docks							16
17		(24) Coal and ore wharves							17
18		(25) TOFC/COFC terminals							18
19		(26) Communications systems							19
20		(27) Signals and interlockers							20
21		(29) Power plants							21
22		(31) Power transmission systems							22
23		(35) Miscellaneous structures							23
24		(37) Roadway machines							24
25		(39) Public improvements - const.							25
26		(44) Shop machinery							26
27		(45) Power plant machinery							27
28		All other road accounts							28
29		Amortization (adjustments)							29
30		TOTAL ROAD							30
		EQUIPMENT							
31		(52) Locomotives							31
32		(53) Freight train cars							32
33		(54) Passenger train cars							33
34		(55) Highway revenue equipment							34
35		(56) Floating equipment							35
36		(57) Work equipment							36
37		(58) Miscellaneous equipment							37
38		(59) Computer systems & WP equip.							38
39		Amortization (adjustments)							39
40		TOTAL EQUIPMENT							40
41		GRAND TOTAL							41

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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Road Initials: **Year**

352B. INVESTMENT IN RAILROAD PROPERTY USED IN TRANSPORTATION SERVICE (By Property Account)

(Dollars in Thousands)

Line No.	Cross Check	Account (a)	Respondent (b)	Lessor Railroads (c)	Inactive (proprietary companies) (d)	Other leased properties (e)	Line No.
1		(2) Land for transportation purposes					1
2		(3) Grading					2
3		(4) Other right-of-way expenditures					3
4		(5) Tunnels and subways					4
5		(6) Bridges, trestles and culverts					5
6		(7) Elevated structures					6
7		(8) Ties					7
8		(9) Rail and other track material					8
9		(11) Ballast					9
10		(13) Fences, snowsheds and signs					10
11		(16) Station and office buildings					11
12		(17) Roadway buildings					12
13		(18) Water stations					13
14		(19) Fuel stations					14
15		(20) Shops and enginehouses					15
16		(22) Storage warehouses					16
17		(23) Wharves and docks					17
18		(24) Coal and ore wharves					18
19		(25) TOFC/COFC terminals					19
20		(26) Communications systems					20
21		(27) Signals and interlockers					21
22		(29) Power plants					22
23		(31) Power transmission systems					23
24		(35) Miscellaneous structures					24
25		(37) Roadway machines					25
26		(39) Public improvements - construction					26
27		(44) Shop machinery					27
28		(45) Power plant machinery					28
29		Leased property (capitalized rentals)					29
30		Other (specify and explain)					30
31		TOTAL ROAD					31
32		(52) Locomotives					32
33		(53) Freight train cars					33
34		(54) Passenger train cars					34
35		(55) Highway revenue equipment					35
36		(56) Floating equipment					36
37		(57) Work equipment					37
38		(58) Miscellaneous equipment					38
39		(59) Computer systems & WP equipment					39
40		TOTAL EQUIPMENT					40
41		(76) Interest during construction					41
42		(80) Other elements of investment					42
43		(90) Construction work in progress					43
44		GRAND TOTAL					44

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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410. RAILWAY OPERATING EXPENSES
(Dollars in Thousands)

State the railway operating expenses on respondent's road for the year, classifying them in accordance with the Uniform System of Accounts for Railroad Companies, and allocate the common operating expenses in accordance with the Board's rules governing the separation of such expenses between freight and passenger services.

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		WAYS & STRUCTURES								
		ADMINISTRATION								
1		Track								1
2		Bridge & building								2
3		Signal								3
4		Communication								4
5		Other								5
		REPAIRS AND MAINTENANCE								
6		Roadway - running								6
7		Roadway - switching								7
8		Tunnels & subways - running								8
9		Tunnels & subways - switching								9
10		Bridges & culverts - running								10
11		Bridges & culverts - switching								11
12		Ties - running								12
13		Ties - switching								13
14		Rail & other track material - running								14
15		Rail & other track material - switching								15
16		Ballast - running								16
17		Ballast - switching								17
18		Road property damaged - running								18
19		Road property damaged - switching								19
20		Road property damaged - other								20
21		Signals & interlockers - running								21
22		Signals & interlockers - switching								22
23		Communications systems								23
24		Power systems								24
25		Highway grade crossings - running								25
26		Highway grade crossings - switching								26
27		Station & office buildings								27
28		Shop buildings - locomotives								28
29		Shop buildings - freight cars						N/A		29
30		Shop buildings - other equipment								30

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		REPAIRS AND MAINTENANCE - (Continued)								
101		Locomotive servicing facilities								101
102		Miscellaneous buildings & structures								102
103		Coal terminals						N/A		103
104		Ore terminals						N/A		104
105		Other marine terminals						N/A		105
106		TOFC/COFC terminals						N/A		106
107		Motor vehicle loading & distribution facilities						N/A		107
108		Facilities for other specialized service operations						N/A		108
109		Roadway machines								109
110		Small tools & supplies								110
111		Snow removal								111
112		Fringe benefits - running	N/A	N/A	N/A					112
113		Fringe benefits - switching	N/A	N/A	N/A					113
114		Fringe benefits - other	N/A	N/A	N/A					114
115		Casualties & insurance - running	N/A	N/A	N/A					115
116		Casualties & insurance - switching	N/A	N/A	N/A					116
117		Casualties & insurance - other	N/A	N/A	N/A					117
118	*	Lease rentals - debit -running	N/A	N/A		N/A				118
119	*	Lease rentals - debit -switching	N/A	N/A		N/A				119
120	*	Lease rentals - debit -other	N/A	N/A		N/A				120
121	*	Lease rentals - (credit) - running	N/A	N/A	( )	N/A	( )	( )	( )	121
122	*	Lease rentals - (credit) - switching	N/A	N/A	( )	N/A	( )	( )	( )	122
123	*	Lease rentals - (credit) - other	N/A	N/A	( )	N/A	( )	( )	( )	123
124		Joint facility rent - debit - running	N/A	N/A		N/A				124
125		Joint facility rent - debit - switching	N/A	N/A		N/A				125
126		Joint facility rent - debit - other	N/A	N/A		N/A				126
127		Joint facility rent - (credit) - running	N/A	N/A	( )	N/A	( )	( )	( )	127
128		Joint facility rent - (credit) - switching	N/A	N/A	( )	N/A	( )	( )	( )	128
129		Joint facility rent - (credit) - other	N/A	N/A	( )	N/A	( )	( )	( )	129
130	*	Other rents - debit - running	N/A	N/A		N/A				130
131	*	Other rents - debit - switching	N/A	N/A		N/A				131
132	*	Other rents - debit - other	N/A	N/A		N/A				132
133	*	Other rents - (credit) - running	N/A	N/A	( )	N/A	( )	( )	( )	133

Road Initials Year

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		REPAIRS AND MAINTENANCE - (Continued)								
134	*	Other rents - (credit) - switching	N/A	N/A	( )	N/A	( )	( )	( )	134
135	*	Other rents - (credit) - other	N/A	N/A	( )	N/A	( )	( )	( )	135
136	*	Depreciation - running	N/A	N/A	N/A					136
137	*	Depreciation - switching	N/A	N/A	N/A					137
138	*	Depreciation - other	N/A	N/A	N/A					138
139		Joint facility - debit - running	N/A	N/A		N/A				139
140		Joint facility - debit - switching	N/A	N/A		N/A				140
141		Joint facility - debit - other	N/A	N/A		N/A				141
142		Joint facility - (credit) - running	N/A	N/A	( )	N/A	( )	( )	( )	142
143		Joint facility - (credit) - switching	N/A	N/A	( )	N/A	( )	( )	( )	143
144		Joint facility - (credit) - other	N/A	N/A	( )	N/A	( )	( )	( )	144
145		Dismantling retired road property - running								145
146		Dismantling retired road property - switching								146
147		Dismantling retired road property - other								147
148		Other - running								148
149		Other - switching								149
150		Other - other								150
151		TOTAL WAY AND STRUCTURES								151
		EQUIPMENT								
		LOCOMOTIVES								
201		Administration								201
202	*	Repair & maintenance								202
203	*	Machinery repair								203
204		Equipment damaged								204
205		Fringe benefits	N/A	N/A	N/A					205
206		Other casualties & insurance	N/A	N/A	N/A					206
207	*	Lease rentals - debit	N/A	N/A		N/A				207
208	*	Lease rentals - (credit)	N/A	N/A	( )	N/A	( )	( )	( )	208
209		Joint facility rent - debit	N/A	N/A		N/A				209
210		Joint facility rent - (credit)	N/A	N/A	( )	N/A	( )	( )	( )	210
211	*	Other rents - debit	N/A	N/A		N/A				211
212	*	Other rents - (credit)	N/A	N/A	( )	N/A	( )	( )	( )	212
213	*	Depreciation	N/A	N/A	N/A					213
214		Joint facility - debit	N/A	N/A		N/A				214
215		Joint facility - (credit)	N/A	N/A	( )	N/A	( )	( )	( )	215
216	*	Repairs billed to others - (credit)	N/A	N/A	( )	N/A	( )	( )	( )	216

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		LOCOMOTIVES - (Continued)								
217		Dismantling retired property								217
218		Other								218
219		TOTAL LOCOMOTIVES								219
		FREIGHT CARS								
220		Administration						N/A		220
221	*	Repair & maintenance						N/A		221
222	*	Machinery repair						N/A		222
223		Equipment damaged						N/A		223
224		Fringe benefits	N/A	N/A	N/A			N/A		224
225		Other casualties & insurance	N/A	N/A	N/A			N/A		225
226	*	Lease rentals - debit	N/A	N/A		N/A		N/A		226
227	*	Lease rentals - (credit)	N/A	N/A		N/A		N/A		227
228		Joint facility rent - debit	N/A	N/A		N/A		N/A		228
229		Joint facility rent - (credit)	N/A	N/A		N/A		N/A		229
230	*	Other rents - debit	N/A	N/A		N/A		N/A		230
231	*	Other rents - (credit)	N/A	N/A		N/A		N/A		231
232	*	Depreciation	N/A	N/A	N/A			N/A		232
233		Joint facility - debit	N/A	N/A		N/A		N/A		233
234		Joint facility - (credit)	N/A	N/A		N/A		N/A		234
235	*	Repairs billed to others - (credit)	N/A	N/A		N/A		N/A		235
236		Dismantling retired property						N/A		236
237		Other						N/A		237
238		TOTAL FREIGHT CARS						N/A		238
		OTHER EQUIPMENT								
301		Administration								301
		Repair & maintenance:								
302	*	Trucks, trailers, & containers - revenue service						N/A		302
303	*	Floating equipment - revenue service						N/A		303
304	*	Passenger & other revenue equipment								304
305	*	Computers and data processing equipment								305
306	*	Machinery								306
307	*	Work & other non-revenue equipment								307
308		Equipment damaged								308
309		Fringe benefits	N/A	N/A	N/A					309
310		Other casualties & insurance	N/A	N/A	N/A					310
311	*	Lease rentals - debit	N/A	N/A		N/A				311
312	*	Lease rentals - (credit)	N/A	N/A		N/A				312

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		OTHER EQUIPMENT (Continued)								
313		Joint facility rent - debit	N/A	N/A		N/A				313
314		Joint facility rent - (credit)	N/A	N/A		N/A				314
315		Other rents - debit	N/A	N/A		N/A				315
316		Other rents - (credit)	N/A	N/A		N/A				316
317		Depreciation	N/A	N/A	N/A					317
318		Joint facility - debit	N/A	N/A		N/A				318
319		Joint facility - (credit)	N/A	N/A		N/A				319
320		Repairs billed to others - (credit)	N/A	N/A		N/A				320
321		Dismantling retired property								321
322		Other								322
323		TOTAL OTHER EQUIPMENT								323
324		TOTAL EQUIPMENT								324
		TRANSPORTATION								
		TRAIN OPERATIONS								
401		Administration								401
402		Engine crews								402
403		Train crews								403
404		Dispatching trains								404
405		Operating signals & interlockers								405
406		Operating drawbridges								406
407		Highway crossing protection								407
408		Train inspection & lubrication								408
409		Locomotive fuel								409
410		Electric power electric power produced or purchased for motive power								410
411		Servicing locomotives								411
412		Freight lost or damaged - solely related	N/A	N/A	N/A					412
413		Clearing wrecks								413
414		Fringe benefits	N/A	N/A	N/A					414
415		Other casualties & insurance	N/A	N/A	N/A					415
416		Joint facility - debit	N/A	N/A		N/A				416
417		**Joint facility - (credit)**	N/A	N/A		N/A				417
418		Other								418
419		**TOTAL TRAIN OPERATIONS**								419
		YARD OPERATIONS								
420		Administration								420
421		Switch crews								421

Road Initials Year

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
		YARD OPERATIONS (Continued)								
422		Controlling operations								422
423		**Yard and terminal clerical**								423
424		**Operating switches, signals, retarders, & humps**								424
425		Locomotive fuel								425
426		Electric power electric power produced or purchased for motive power								426
427		Servicing locomotives								427
428		**Freight lost or damaged - solely related**	N/A	N/A	N/A					428
429		**Clearing wrecks**								429
430		Fringe benefits	N/A	N/A	N/A					430
431		Other casualties & insurance	N/A	N/A	N/A					431
432		Joint facility - debit	N/A	N/A		N/A				432
433		**Joint facility - (credit)**	N/A	N/A		N/A				433
434		Other								**434**
435		**TOTAL YARD OPERATIONS**								435
		TRAIN & YARD OPERATIONS COMMON:								
501		Cleaning car interiors				N/A				501
502		Adjusting & transferring loads				N/A		N/A		502
503		Car loading devices & grain docks				N/A		N/A		503
504		**Freight lost or damaged - all other**	N/A	N/A	N/A					504
505		**Fringe benefits**	N/A	N/A	N/A					505
506		TOTAL TRAIN & YARD OPERATIONS COMMON:								506
		SPECIALIZED SERVICE OPERATIONS								
507	*	Administration						N/A		507
508	*	**Pickup & delivery and marine line haul**						N/A		508
509	*	Loading & unloading and local marine						N/A		**509**
510	*	**Protective services**						N/A		510
511	*	Freight lost or damaged - solely related	N/A	N/A	N/A			N/A		511
512	*	Fringe benefits	N/A	N/A	N/A			N/A		512
513	*	Casualties & insurance	N/A	N/A	N/A			N/A		513
514	*	Joint facility - debit	N/A	N/A		N/A		N/A		514
515	*	**Joint facility - (credit)**	N/A	N/A		N/A		N/A		515
516	*	Other						N/A		516
517	*	**TOTAL SPECIALIZED SERVICE OPERATIONS**						N/A		**517**

Road Initials Year

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410. RAILWAY OPERATING EXPENSES - (Continued)
(Dollars in Thousands)

Line No.	Cross Check	Name of railway operating expense account (a)	Salaries & Wages (b)	Material, tools, supplies, fuels, & lubricants (c)	Purchased services (d)	General (e)	Total freight expense (f)	Passenger (g)	Total (h)	Line No.
518		ADMINISTRATIVE SUPPORT OPERATIONS: Administration								518
519		Employees performing clerical & accounting functions								519
520		Communication systems operations								520
521		Loss & damage claims processing								521
522		Fringe benefits	N/A	N/A	N/A					522
523		Casualties & insurance	N/A	N/A	N/A					523
524		Joint facility - debit	N/A	N/A		N/A				524
525		Joint facility - (credit)	N/A	N/A		N/A				525
526		Other								526
527		TOTAL ADMINISTRATIVE SUPPORT OPERATIONS								527
528		TOTAL TRANSPORTATION								528
601		GENERAL AND ADMINISTRATIVE Officers - general administration								601
602		Accounting, auditing, & finance								602
603		Management services & data processing								603
604		Marketing								604
605		Sales								605
606		Industrial development						N/A		606
607		Personnel & labor relations								607
608		Legal & secretarial								608
609		Public relations & advertising								609
610		Research & development								610
611		Fringe benefits	N/A	N/A	N/A					611
612		Casualties & insurance	N/A	N/A	N/A					612
613		Writedown of uncollectible accounts	N/A	N/A	N/A					613
614		Property taxes	N/A	N/A	N/A					614
615		Other taxes except on corporate income or payr	N/A	N/A	N/A					615
616		Joint facility - debit	N/A	N/A		N/A				616
617		Joint facility - (credit)	N/A	N/A		N/A				617
618		Other								618
619		TOTAL GENERAL AND ADMINISTRATIVE								619
620	*	TOTAL CARRIER OPERATING EXPENSE								620

Road Initials

Year

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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Road Initials **Year**

700. MILEAGE OPERATED AT CLOSE OF YEAR

Line No.		Class (a)	Proportion owned or leased by respondent (b)	Running tracks, passing tracks, cross-overs, etc. Miles of road (c)	Miles of second main track (d)	Miles of all other main tracks (e)	Miles of passing tracks, cross-overs, and turnouts (f)	Miles of way switching tracks (g)	Miles of yard switching tracks (h)	TOTAL (i)	Line No.
1											1
2											2
3											3
4											4
5											5
6											6
7											7
8											8
9											9
10											10
11											11
12											12
13											13
14											14
15											15
16											16
17											17
18											18
19											19
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24											24
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26											26
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28											28
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30											30
31											31
32											32
33											33
34											34
35											35
36											36
37											37
38											38
39											39
40											40
41											41
42											42
43											43
44											44
45											45
46											46
47											47
48											48
49											49
50											50
51											51
52											52
53											53
54											54
55											55
56											56
57		TOTAL									57
58		Miles of electrified road or track included in the preceding grand total									58

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Road Initials Year

NOTES AND REMARKS

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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710. INVENTORY OF EQUIPMENT
UNITS OWNED, INCLUDED IN INVESTMENT ACCOUNT, AND LEASED FROM OTHERS

Line No.	Cross Check	Type or design of units (a)	Units in service of respondent at beginning of year (b)	Changes During the Year: Units Installed: New units purchased or built (c)	New units leased from others (d)	Rebuilt units acquired and rebuilt units rewritten into property accounts (e)	All other units including reclassification and second hand units purchased or leased from others (f)	Units retired from service of respondent whether owned or leased, including reclassification (g)	Units at Close of Year: Owned and used (h)	Leased from others (i)	Total in service of respondent [col (h) & (i)] (j)	Aggregate capacity of units reported in col (j) (k)	Leased to others (l)	Line No.
		Locomotive Units										(HP)		
1		Diesel-freight units												1
2		Diesel-passenger units												2
3		Diesel-multiple purpose units												3
4		Diesel-switching units												4
5	*	TOTAL (lines 1 to 4) units												5
6	*	Electric locomotives												6
7	*	Other self-powered units												7
8	*	TOTAL (lines 5, 6, and 7)												8
9	*	Auxiliary units										N/A		9
10	*	TOTAL LOCOMOTIVE UNITS (lines 8 and 9)										N/A		10

DISTRIBUTION OF LOCOMOTIVE UNITS IN SERVICE OF RESPONDENT AT CLOSE OF YEAR BUILT, DISREGARDING YEAR OF REBUILDING

Line No.	Cross Check	Type or design of units (a)	Before 1/1/1990 (b)	Between 1/1/1990 and 12/31/1994 (c)	Between 1/1/1995 and 12/31/1999 (d)	Between 1/1/2000 and 12/31/2004 (e)	Between 1/1/2005 and 12/31/2009 (f)	During Calendar Year: 2010 (g)	2011 (h)	2012 (i)	2013 (j)	2014 (k)	TOTAL (l)	Line No.
11	*	Diesel												11
12	*	Electric												12
13	*	Other self-powered units												13
14	*	TOTAL (lines 11 to 13)												14
15	*	Auxiliary units												15
16	*	TOTAL LOCOMOTIVE UNITS (lines 14 and 15)										N/A		16

Road Initials

Year

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710. INVENTORY OF EQUIPMENT (Continued)
UNITS OWNED, INCLUDED IN INVESTMENT ACCOUNT, AND LEASED FROM OTHERS

Line No.	Cross Check	Type or design of units (a)	Units in service of respondent at beginning of year (b)	Changes During the Year: Units Installed: New units purchased or built (c)	New units leased from others (d)	Rebuilt units acquired and rebuilt units rewritten into property accounts (e)	All other units including reclassification and second hand units purchased or leased from others (f)	Units retired from service of respondent whether owned or leased, including reclassification (g)	Units at Close of Year: Owned and used (h)	Leased from others (i)	Total in service of respondent [col (h) & (i)] (j)	Aggregate capacity of units reported in col (j) (k)	Leased to others (l)	Line No.
		Passenger-Train Cars Non-Self-Propelled												
17		Coaches (PA, PB, PBO)												17
18		Combined cars (All class C, except CSB)												18
19		Parlor cars (PBC, PC, PL, PO)												19
20		Sleeping cars (PS, PT, PAS, PDS)												20
21		Dining, grill, & tavern cars (All class D, PD)										N/A		21
22		Nonpassenger carrying cars (All class B, CSB, M, PSA, IA)										N/A		22
23		TOTAL (Lines 17 to 22)												23
		Self-Propelled												
24		Electric passenger cars (EP, ET)												24
25		Electric combined cars (EC)												25
26		Internal combustion rail motorcars (ED, EG)												26
27		Other self-propelled cars (Specify types)												27
28		TOTAL (Lines 24 to 27)												28
29		TOTAL (Lines 23 and 28)												29
		Company Service Cars												
30		Business cars (PV)										N/A		30
31		Board outfit cars (MWX)										N/A		31
32		Derrick & snow removal cars (MWU, MWV, MWW, MWK)										N/A		32
33		Dump and ballast cars (MWB, MWD)										N/A		33
34		Other maintenance and service equipment cars										N/A		34
35		TOTAL (Lines 30 to 34)										N/A		35

Road Initials

Year

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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Road Initials Year

710S. UNIT COST OF EQUIPMENT INSTALLED DURING THE YEAR

(Dollars in Thousands)

NEW UNITS

Line No.	Class of equipment	Number of Units	Total Weight (Tons)	Total Cost	Method of Acquisition	Line No.
1						1
2						2
3						3
4						4
5						5
6						6
7						7
8						8
9						9
10						10
11						11
12						12
13						13
14						14
15						15
16						16
17						17
18						18
19						19
20						20
21						21
22						22
23						23
24						24
25						25
	REBUILT UNITS					
26						26
27						27
28						28
29						29
30						30
31						31
32						32
33						33
34						34
35						35
36						36
37						37
38						38
39						39

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

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720. TRACK AND TRAFFIC CONDITIONS

Line No.	Track category (a)	Mileage of tracks at end of period (whole numbers) (b)	Average annual traffic density in millions of gross ton-miles per track-mile* (use two decimal places) (c)	Average running speed limit (use two decimal places) (d)	Track miles under slow orders at end of period (e)	Line No.
1	A					1
2	B					2
3	C					3
4	D					4
5	E		XXXXXXXXXX	XXXXXXXX		5
6	TOTAL					6
7	F		XXXXXXXXXX	XXXXXXXX		7
8	Potential abandonments					8

* To determine average density, total track-miles (route-miles times number of tracks), rather than route-miles, shall be used.

Road Initials Year

* PTC-related expenditures from passenger-only service not otherwise captured in this schedule shall be stated in the aggregate here:

Footnote: PTC Grants

In addition to separating capital expenses and operating expenses incurred by the railroad for PTC, the respondent entity shall include by footnote disclosure here the value of funds received from non-government and government transfers to include grants, subsidies, and other contributions or reimbursements that the respondent entity used to purchase or create PTC assets or to offset PTC costs. These amounts represent non-railroad monies that the respondent entity used or designated for PTC and would provide for full disclosure of PTC costs on an annual basis. This disclosure shall identify the nature and location of the project by FRA identification, if applicable. If FRA identification is not applicable, the disclosure shall identify the location at the state or regional level.

Line No.	Entity Receiving Funds	Entity Dispensing Funds	Name of Program Providing Funding	Location(s) of the Project Funded	Amount of Funding Received	Line No.
1						1
2						2
3						3
4						4
5						5
6						6
7						7
8						8
9						9
10						10
11						11
12						12
13						13
14						14
15						15
16						16
17						17
18						18
19						19
20						20
21						21
22						22
23						23
24						24

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 111220786–1781–01]

RIN 0648–XC811

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for the Commonwealth of Massachusetts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces that the 2013 summer flounder commercial quota allocated to the Commonwealth of Massachusetts has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Massachusetts for the remainder of calendar year 2013, unless additional quota becomes available through a transfer from another state. Regulations governing the summer flounder fishery require publication of this notification to advise Massachusetts that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing summer flounder in Massachusetts.

DATES: Effective August 23, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Carly Bari, (978) 281–9224, or *Carly.Bari@noaa.gov.*

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102.

The initial total commercial quota for summer flounder for the 2013 fishing year is 11,793,596 lb (5,349,575 kg) (77 FR 76942, December 31, 2012). The percent allocated to vessels landing summer flounder in Massachusetts is 6.82046 percent, resulting in a commercial quota of 804,377 lb (364,866 kg). The 2013 allocation was adjusted to 791,236 lb (358,899 kg) after deduction of research set-aside, adjustment for 2012 quota overages, and an adjustment for a quota transfer between states.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the state commercial quotas and determines when a state's commercial quota has been harvested. NMFS is required to publish notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined based upon dealer reports and other available information that Massachusetts has harvested its quota for 2013.

Section 648.4(b) provides that Federal permit holders agree, as a condition of the permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, August 23, 2013, landings of summer flounder in Massachusetts by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2013 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective 0001 hours, August 23, 2013,