Railroad Accidents/Incidents: Reports Classification, and Investigations

Part 225

Railroad Accidents/Incidents: Reports Classification, and Investigations

225.1 Purpose.
225.3 Applicability.
225.5 Definitions.
225.7 Public examination and use of reports.
225.9 Telephonic reports of certain accidents/incidents and other events.
225.11 Reporting of accidents/incidents.
225.12 Rail Equipment Accident/Incident Reports alleging employee human factor as cause; Employee Human Factor Attachment; notice to employee; employee supplement.
225.13 Late reports.
225.15 Accidents/incidents not to be reported.
225.17 Doubtful cases; alcohol or drug involvement.
225.19 Primary groups of accidents/incidents.
225.21 Forms.
225.23 Joint operations.
225.25 Recordkeeping.
225.27 Retention of records.
225.29 Penalties.
225.31 Investigations.
225.33 Internal Control Plans.
225.35 Access to records and reports.
225.37 Magnetic media transfer and electronic submission.
225.39 FRA policy on covered data.

225 App A Appendix A to Part 225
225 App B Appendix B to Part 225

Authority: 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49.
Source: 39 FR 43224, Dec. 11, 1974, unless otherwise noted.

225.1

Purpose.

The purpose of this part is to provide the Federal Railroad Administration with accurate information concerning the hazards and risks that exist on the Nation's railroads. FRA needs this information to effectively carry out its regulatory responsibilities under 49 U.S.C. chapters 201-213. FRA also uses this information for determining comparative trends of railroad safety and to develop hazard elimination and risk reduction programs that focus on preventing railroad injuries and accidents. Issuance of these regulations under the federal railroad safety laws and regulations preempts States from prescribing accident/incident reporting requirements. Any State may, however, require railroads to submit to it copies of accident/incident and injury/illness reports filed with FRA under this part, for accidents/incidents and injuries/illnesses which occur in that State. (Approved by the Office of Management and Budget under control number 2130-0500)
[49 FR 48939, Dec. 17, 1984, as amended at 53 FR 28601, July 28, 1988; 54 FR 33229, Aug. 14, 1989; 61 FR 30940, June 18, 1996]

225.3

Applicability.

(a) Except as provided in paragraphs (b), (c), and (d), this part applies to all railroads except-
(1) A railroad that operates freight trains only on track inside an installation which is not part of the general railroad system of transportation or that owns no track except for track that is inside an installation that is not part of the general railroad system of transportation and used for freight operations.
(2) Rail mass transit operations in an urban area that are not connected with the general railroad system of transportation.

(3) A railroad that exclusively hauls passengers inside an installation that is insular or that owns no track except for track used exclusively for the hauling of passengers inside an installation that is insular. An operation is not considered insular if one or more of the following exists on its line:
(i) A public highway-rail grade crossing that is in use;
(ii) An at-grade rail crossing that is in use;
(iii) A bridge over a public road or waters used for commercial navigation; or
(iv) A common corridor with a railroad, i.e., its operations are within 30 feet of those of any railroad.

(b) The Internal Control Plan requirements in § 225.33(a)(3)through(10) do not apply to-

(1) Railroads that operate or own track on the general railroad system of transportation that have 15 or fewer employees covered by the hours of service law (49 U.S.C. 21101-21107) and
(2) Railroads that operate or own track exclusively off the general system.

(c) The recordkeeping requirements regarding accountable injuries and illnesses and accountable rail equipment accidents/incidents found in § 225.25(a)through(g) do not apply to-
(1) Railroads that operate or own track on the general railroad system of transportation that have 15 or fewer employees covered by the hours of service law (49 U.S.C. 21101-21107) and
(2) Railroads that operate or own track exclusively off the general system.

(d) All requirements in this part to record or report an injury or illness incurred by any classification of person that results from a non-train incident do not apply to railroads that operate or own track exclusively off the general railroad system of transportation, unless the non-train incident involves in- service on-track equipment.
[61 FR 30940, June 18, 1996; 61 FR 67477, December 23, 1996]

225.5

Definitions.
As used in this part-
Accident/Incident means:
(1) Any impact between railroad on-track equipment and an automobile, bus, truck, motorcycle, bicycle, farm vehicle or pedestrian at a highway-rail grade crossing;
(2) Any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in reportable damages greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, and roadbed;
(3) Any event or exposure arising from the operation of a railroad, if the event or exposure is a discernable cause of one or more of the following outcomes, and this outcome is a new case or a significant aggravation of a pre-existing injury or illness: (i) Death to any person; (ii) Injury to any person that results in medical treatment; (iii) Injury to a railroad employee that results in: (A) A day away from work; (B) Restricted work activity or job transfer; or (C) Loss of consciousness; (iv) Occupational illness of a railroad employee that results in any of the following: (A) A day away from work; (B) Restricted work activity or job transfer; (C) Loss of consciousness; or (D) Medical treatment; (v) Significant injury to or significant illness of a railroad employee diagnosed by a physician or other licensed health care professional even if it does not result in death, a day away from work, restricted work activity or job transfer, medical treatment, or loss of consciousness; (vi) Illness or injury that meets the application of any of the following specific case criteria: (A) Needlestick or sharps injury to a railroad employee; (B) Medical removal of a railroad employee; (C) Occupational hearing loss of a railroad employee; (D) Occupational tuberculosis of a railroad employee; or (E) Musculoskeletal disorder of a railroad employee if this disorder is independently reportable under one or more of the general reporting criteria. (4) Occupational illness.
Accountable injury or illness means any condition, not otherwise reportable, of a railroad employee that is discernably caused by an event, exposure, or activity in the work

environment which condition causes or requires the railroad employee to be examined or treated by a qualified health care professional.

Accountable rail equipment accident/incident means any event not otherwise reportable, involving the operation of on-track equipment that causes physical damage to either the on-track equipment or the track upon which such equipment was operated and that requires the removal or repair of rail equipment from the track before any rail operations over the track can continue. An accountable rail equipment accident/incident, if not tended to, thus would disrupt railroad service. Examples of "disruption of service" would include: loss of main track; one or more derailed wheels; any train failing to arrive or depart at its scheduled time; one or more cars or locomotives taken out of service; or rerouting trains due to a damaged car or locomotive.

Covered data means information that must be reported to FRA under this part concerning a railroad employee injury or illness case that is reportable exclusively because a physician or other licensed health care professional -

(1) Recommended in writing that -

(i) The employee take one or more days away from work when the employee instead reports to work (or would have reported had he or she been scheduled) and takes no days away from work in connection with the injury or illness,

(ii) The employee work restricted duty for one or more days when the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled) and takes no days of restricted work activity in connection with the injury or illness, or

(iii) The employee take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication; or

(2) Made a one-time topical application of a prescription-strength medication to the employee's injury.

Day away from work means a day away from work as described in paragraph (1) of this definition or, if paragraph (1) does not apply, a day away from work solely for reporting purposes as described in paragraph (2) of this definition. For purposes of this definition, the count of days includes all calendar days, regardless of whether the employee would normally be scheduled to work on those days (e.g., weekend days, holidays, rest days, and vacation days), and begins on the first calendar day after the railroad employee has been examined by a physician or other licensed health care professional (PLHCP) and diagnosed with a work-related injury or illness. In particular, the term means -

(1) Each calendar day that the employee, for reasons associated with his or her condition, does not report to work (or would have been unable to report had he or she been scheduled) if not reporting results from:

(i) A PLHCP's written recommendation not to work, or

(ii) A railroad's instructions not to work, if the injury or illness is otherwise reportable; or

(2) A minimum of one calendar day if a PLHCP, for reasons associated with the employee's condition, recommends in writing that the employee take one or more days away from work, but the employee instead reports to work (or would have reported had he or she been scheduled). This paragraph is intended to take into account "covered data" cases and also those non-covered data cases that are independently reportable for some

other reason (e.g., "medical treatment" or "day of restricted work activity"). The requirement to report "a minimum of one calendar day" is intended to give a railroad the discretion to report up to the total number of days recommended by the PLHCP.

Day of restricted work activity means a day of restricted work activity as described in paragraph (1) of this definition or, if paragraph (1) does not apply, a day of restricted work activity solely for reporting purposes as described in paragraph (2) of this definition; in both cases, the work restriction must affect one or more of the employee's routine job functions (i.e., those work activities regularly performed at least once per week) or prevent the employee from working the full workday that he or she would otherwise have worked. For purposes of this definition, the count of days includes all calendar days, regardless of whether the employee would normally be scheduled to work on those days (e.g., weekend days, holidays, rest days, and vacation days), and begins on the first calendar day after the railroad employee has been examined by aphysician or other licensed health care professional (PLHCP) and diagnosed with a work-related injury or illness. In particular, the term means -

(1) Each calendar day that the employee, for reasons associated with his or her condition, works restricted duty (or would have worked restricted duty had he or she been scheduled) if the restriction results from:

(i) A PLHCP's written recommendation to work restricted duty, or

(ii) A railroad's instructions to work restricted duty, if the injury or illness is otherwise reportable; or

(2) A minimum of one calendar day if a PLHCP, for reasons associated with the employee's condition, recommends in writing that the employee work restricted duty for one or more days, but the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled). This paragraph is intended to take into account "covered data" cases and also those non-covered data cases that are independently reportable for some other reason (e.g., "medical treatment" or "day of restricted work activity"). The requirement to report "a minimum of one calendar day" is intended to give a railroad the discretion to report up to the total number of days recommended by the PLHCP.

Event or exposure arising from the operation of a railroad includes -

(1) With respect to a person who is on property owned, leased, or maintained by the railroad, an activity of the railroad that is related to the performance of its rail transportation business or an exposure related to the activity;

(2) With respect to an employee of the railroad (whether on or off property owned, leased, or maintained by the railroad), an activity of the railroad that is related to the performance of its rail transportation business or an exposure related to the activity; and

(3) With respect to a person who is not an employee of the railroad and not on property owned, leased, or maintained by the railroad - an event or exposure directly resulting from one or more of the following railroad operations:

(i) A train accident, a train incident, or a highway-rail crossing accident or incident involving the railroad; or

(ii) A release of a hazardous material from a railcar in the possession of the railroad or of another dangerous commodity that is related to the performance of the railroad's rail transportation business.

Employee human factor includes any of the accident causes signified by the train accident cause codes listed under "Train Operation-Human Factors" in the current "FRA Guide for Preparing Accidents/Incidents Reports," except for those train accident cause codes pertaining to non-railroad workers. For purposes of this definition "employee" includes the classifications of Worker on Duty-Employee, Employee not on Duty, Worker on Duty-Contractor, and Worker on Duty-Volunteer.

Establishment means a single physical location where workers report to work, where railroad business is conducted, or where services or operations are performed. Examples are: a division office, general office, repair or maintenance facility, major switching yard or terminal. For employees who are engaged in dispersed operations, such as signal or track maintenance workers, an "establishment" is typically a location where work assignments are initially made and oversight responsibility exists, e.g., the establishment where the signal supervisor or roadmaster is located.

First aid treatment means treatment limited to simple procedures used to treat minor conditions, such as abrasions, cuts, bruises, and splinters. First aid treatment is typically confined to a single treatment and does not require special skills or procedures.

FRA representative means the Associate Administrator for Safety, FRA; the Associate Administrator's delegate (including a qualified State inspector acting under part 212 of this chapter); the Chief Counsel, FRA; or the Chief Counsel's delegate.

General reporting criteria means the criteria listed in § 225.19(d)(1),(2),(3),(4), and (5).

Highway-rail grade crossing means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks at grade.

Joint operations means rail operations conducted on a track used jointly or in common by two or more railroads subject to this part or operation of a train, locomotive, car, or other on-track equipment by one railroad over the track of another railroad.

Medical treatment means any medical care or treatment beyond "first aid" regardless of who provides such treatment. Medical treatment does not include diagnostic procedures, such as X-rays and drawing blood samples. Medical treatment also does not include counseling.

Medical removal means medical removal under the medical surveillance requirements of the Occupational Safety and Health Administration standard in 29 CFR part 1910 in effect during calendar year 2002, even if the case does not meet one of the general reporting criteria.

Musculoskeletal disorder (MSD) means a disorder of the muscles, nerves, tendons, ligaments, joints, cartilage, and spinal discs. The term does not include disorders caused by slips, trips, falls, motor vehicle accidents, or other similar accidents. Examples of MSDs include: Carpal tunnel syndrome, Rotator cuff syndrome, De Quervain's disease, Trigger finger, Tarsal tunnel syndrome, Sciatica, Epicondylitis, Tendinitis, Raynaud's phenomenon, Carpet layers knee, Herniated spinal disc, and Low back pain.

Needlestick or sharps injury means a cut, laceration, puncture, or scratch from a needle or other sharp object that involves contamination with another person's blood or other potentially infectious material, even if the case does not meet one of the general reporting criteria.

New case means a case in which either the employee has not previously experienced a reported injury or illness of the same type that affects the same part of the body, or the

employee previously experienced a reported injury or illness of the same type that affected the same part of the body but had recovered completely (all signs had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

Non-train incident means an event that results in a reportable casualty, but does not involve the movement of on-track equipment nor cause reportable damage above the threshold established for train accidents.

Occupational hearing loss means a diagnosis of occupational hearing loss by a physician or other licensed health care professional, where the employee's audiogram reveals a work-related Standard Threshold Shift (STS) (i.e., at least a 10-decibel change in hearing threshold, relative to the baseline audiogram for that employee) in hearing in one or both ears, and the employee's total hearing level is 25 decibels or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS.

Occupational illness means any abnormal condition or disorder, as diagnosed by a physician or other licensed health care professional, of any person who falls under the definition for the classification of Worker on Duty - Employee, other than one resulting from injury, discernably caused by an environmental factor associated with the person's railroad employment, including, but not limited to, acute or chronic illnesses or diseases that may be caused by inhalation, absorption, ingestion, or direct contact.

Occupational tuberculosis means the occupational exposure of an employee to anyone with a known case of active tuberculosis if the employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, even if the case does not meet one of the general reporting criteria.

Person includes all categories of entities covered under 1 U.S.C. 1, including, but not limited to, a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any passenger; any trespasser or nontrespasser; any independent contractor providing goods or services to a railroad; any volunteer providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

Privacy concern case is any occupational injury or illness in the following list:

(1) Any injury or illness to an intimate body part or the reproductive system;

(2) An injury or illness resulting from a sexual assault;

(3) Mental illnesses;

(4) HIV infection, hepatitis, or tuberculosis;

(5) Needlestick and sharps injuries; and

(6) Other injuries or illnesses, if the employee independently and voluntarily requests in writing to the railroad reporting officer that his or her injury or illness not be posted.

Qualified health care professional is a health care professional operating within the scope of his or her license, registration, or certification. For example, an otolaryngologist is qualified to diagnose a case of noise-induced hearing loss and identify potential causal factors, but may not be qualified to diagnose a case of repetitive motion injuries. In addition to licensed physicians, the term "qualified health care professional" includes members of other occupations associated with patient care and treatment such as chiropractors, podiatrists, physician's assistants, psychologists, and dentists.

Railroad means a person providing railroad transportation.
Railroad transportation means any form of non-highway ground transportation that run on rails or electro-magnetic guideways, including commuter or other short-haul railroad passenger service in a metropolitan or suburban area, as well as any commuter railroad service that was operated by the Consolidated Rail Corporation as of January 1, 1979, and high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.
Significant change in the damage costs for reportable rail equipment accidents/incidents means at least a ten-percent variance between the damage amount reported to FRA and current cost figures.
Significant change in the number of reportable days away from work or days restricted means at least a ten-percent variance in the number of actual reportable days away from work or days restricted compared to the number of days already reported.
Significant illness means an illness involving cancer or a chronic irreversible disease such as byssinosis or silicosis, if the disease does not result in death, a day away from work, restricted work, job transfer, medical treatment, or loss of consciousness.
Significant injury means an injury involving a fractured or cracked bone or a punctured eardrum, if the injury doesnot result in death, a day away from work, restricted work, job transfer, medical treatment, or loss of consciousness.
Train accident means any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in damages greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, and roadbed.
Train incident means any event involving the movement of on-track equipment that results in a reportable casualty but does not cause reportable damage above the current threshold established for train accidents.
Work environment is the physical location, equipment, materials processed or used, and activities of a railroad employee associated with his or her work, whether on or off the railroad's property.
Work related means related to any incident, activity, exposure, or the like occurring within the work environment.
[39 FR 43224, Dec. 11, 1974, as amended at 51 FR 47019, Dec. 30, 1986; 53 FR 28601, July 28, 1988; 53 FR 48548, Dec. 1, 1988; 55 FR 37827, Sept. 13, 1990; 55 FR 52487, Dec. 21, 1990; 61 FR 30940, June 18, 1996; 61 FR 59368, November 22, 1996; 61 FR 67477, December 23, 1996; 68 FR 10108, March 03, 2003]

225.7

Public examination and use of reports.

(a) Accident/Incident reports made by railroads in compliance with these rules shall be available to the public in the manner prescribed by part 7 of this title. Accident/Incident reports may be inspected at the Office of Safety, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Written requests for a copy of a report

should be addressed to the Freedom of Information Officer, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590, and be accompanied by the appropriate fee prescribed in part 7 of this title. To facilitate expedited handling, each request should be clearly marked "Request for Accident/Incident Report."
(b) 49 U.S.C. 20903 provides that monthly reports filed by railroads under §225.11 may not be admitted as evidence or used for any purpose in any action for damages growing out of any matters mentioned in these monthly reports. The Employee Human Factor Attachment, Notice, and Employee Supplement under §225.12 are part of the reporting railroad's accident report to FRA pursuant to the 49 U.S.C. 20901 and, as such, shall not "be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report ***." 49 U.S.C. 20903.
[39 FR 43224, Dec. 11, 1974, as amended at 51 FR 47019, Dec. 30, 1986; 53 FR 28601, July 28, 1988; 55 FR 37827, Sept. 13, 1990; 55 FR 52487, Dec. 21, 1990; 61 FR 30940, June 18, 1996]

225.9

Telephonic reports of certain accidents/incidents and other events.1, 22Locomotive Safety Standards require certain locomotive accidents to be reported by telephone at the same toll free number (See Title 49, Code of Federal Regulations, §229.17.) Telephonic reports of certain accidents/incidents.1, 2

(a) Types of accidents/incidents and other events to be reported.

(1) Certain deaths or injuries. Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns ofthe occurrence of an accident/incident arising from the operation of the railroad, or an event or exposure that may have arisen from the operation of the railroad, that results in the -
(i) Death of a rail passenger or a railroad employee;
(ii) Death of an employee of a contractor to a railroad performing work for the railroad on property owned, leased, or maintained by the contracting railroad; or
(iii) Death or injury of five or more persons.

(2) Certain train accidents or train incidents. Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any of the following events that arose from the operation of the railroad:

225.9(a)(1)(i)

(i) A train accident that results in serious injury to two or more train crewmembers or passengers requiring their admission to a hospital;
(ii) A train accident resulting in evacuation of a passenger train;
(iii) A fatality at a highway-rail grade crossing as a result of a train accident or train incident;
(iv) A train accident resulting in damage (based on a preliminary gross estimate) of $150,000, to railroad and nonrailroad property; or

(v) A train accident resulting in damage of $25,000 or more to a passenger train, including railroad and nonrailroad property.

225.9(a)(3)
(3) Train accidents on or fouling passenger service main lines. The dispatching railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any train accident reportable as a rail equipment accident/incident under § § 225.11 and 225.19(c) -
(i) that involves a collision or derailment on a main line that is used for scheduled passenger service; or
(ii) that fouls a main line used for scheduled passenger service.

(b) Method of reporting.

(1) Telephonic reports required by this section shall be made by toll-free telephone to the National Response Center, Area Code 800-424-8802 or 800-424-0201.

(2) Through one of the same telephone numbers (800-424-0201), the National Response Center (NRC) also receives notifications of rail accidents for the National Transportation Safety Board (49 CFR part 840) and the Research and Special Programs Administration of the U.S. Department of Transportation (Hazardous Materials Regulations, 49 CFR 171.15). FRA Locomotive Safety Standards require certain locomotive accidents to be reported by telephone to the NRC at the same toll-free number (800-424-0201). 49 CFR 229.17.

(c) Contents of report. Each report must state the:

(1) Name of the railroad;
(2) Name, title, and telephone number of the individual making the report;
(3) Time, date, and location of the accident/incident;
(4) Circumstances of the accident/incident;
(5) Number of persons killed or injured; and
(6) Available estimates of railroad and non-railroad property damage.

(d) Timing of report.

(1) To the extent that the necessity to report an accident/incident depends upon a determination of fact or an estimate of property damage, a report will be considered immediate if made as soon as possible following the time that the determination or estimate is made, or could reasonably have been made, whichever comes first, taking into consideration the health and safety of those affected by the accident/incident, including actions to protect the environment.
(2) NTSB has other specific requirements regarding the timeliness of reporting. See 49 CFR part 840.

[39 FR 43224, Dec. 11, 1974, as amended at 41 FR 15847, Apr. 15, 1976; 49 FR 48939, Dec. 17, 1984; 68 FR 10108, March 03, 2003]

225.11

Reporting of accidents/incidents.

Each railroad subject to this part shall submit to FRA a monthly report of all railroad accidents/incidents described in 225.19. The report shall be made on the forms prescribed in 225.21 in hard copy or, alternatively, by means of magnetic media or electronic submission, as prescribed in 225.37, and shall be submitted within 30 days after expiration of the month during which the accidents/incidents occurred. Reports shall be completed as required by the current "FRA Guide for Preparing Accidents/Incidents Reports." A copy of this guide may be obtained from the Office of Safety, RRS-22, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. [49 FR 48939, Dec. 17, 1984; 61 FR 30940, June 18, 1996]

225.12

Rail Equipment Accident/Incident Reports alleging employee human factor as cause; Employee Human Factor Attachment; notice to employee; employee supplement.

(a) Rail Equipment Accident/Incident Report alleging employee human factor as cause; completion of Employee Human Factor Attachment. If, in reporting a rail equipment accident/incident to FRA, a railroad cites an employee human factor as the primary cause or a contributing cause of the accident; then the railroad that cited such employee human factor must complete, in accordance with instructions on the form and in the current "FRA Guide for Preparing Accident/Incident Reports," an Employee Human Factor Attachment form on the accident. For purposes of this section, "employee" is defined as a Worker on Duty-Employee, Employee not on Duty, Worker on Duty-Contractor, or Worker on Duty-Volunteer.

(b) Notice to identified implicated employees. Except as provided in paragraphs (e) and (f) of this section, for each employee whose act, omission, or physical condition was alleged by the railroad as the employee human factor that was the primary cause or a contributing cause of a rail equipment accident/incident and whose name was listed in the Employee Human Factor Attachment for the accident and for each such railroad employee of whose identity the railroad has actual knowledge, the alleging railroad shall-

(1) Complete part I, "Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor," of Form FRA F 6180.78 with information regarding the accident, in accordance with instructions on the form and in the current "FRA Guide for Preparing Accident/Incident Reports"; and

(2) Hand deliver or send by first class mail (postage prepaid) to that employee, within 45 days after the end of the month in which the rail equipment accident/incident occurred-
(i) A copy of Form FRA F 6180.78, "Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor; Employee Statement Supplementing Railroad Accident Report," with part I completed as to the applicable employee and accident;
(ii) A copy of the railroad's Rail Equipment Accident/Incident Report and Employee Human Factor Attachment on the rail equipment accident/incident involved; and
(iii) If the accident was also reportable as a highway-rail grade crossing accident/incident, a copy of the railroad's Rail-Highway Grade Crossing Accident/Incident Report on that accident.

(c) Joint operations. If a reporting railroad makes allegations under paragraph (a) of this section concerning the employee of another railroad, the employing railroad must promptly provide the name, job title, address, and medical status of any employee reasonably identified by the alleging railroad, if requested by the alleging railroad.

(d) Late identification. Except as provided in paragraphs (e) and (f) of this section, if a railroad is initially unable to identify a particular railroad employee whose act, omission, or physical condition was cited by the railroad as a primary or contributing cause of the accident, but subsequently makes such identification, the railroad shall submit a revised Employee Human Factor Attachment to FRA immediately, and shall submit the Notice described in paragraph (b) of this section to that employee within 15 days of when the revised report is to be submitted.

(e) Deferred notification on medical grounds. The reporting railroad has reasonable discretion to defer notification of implicated employees on medical grounds.

(f) Implicated employees who have died by the time that the Notice is ready to be sent.

(1) If an implicated employee has died as a result of the accident, a Notice under paragraph (b) addressed to that employee must not be sent to any person.

(2) If an implicated employee has died of whatever causes by the time that the Notice is ready to be sent, no Notice addressed to that employee is required.

(g) Employee Statement Supplementing Railroad Accident Report (Supplements or Employee Supplements).

(1) Employee Statements Supplementing Railroad Accident Reports are voluntary, not mandatory; nonsubmission of a Supplement does not imply that the employee admits or endorses the railroad's conclusions as to cause or any other allegations.

(2) Although a Supplement is completely optional and not required, if an employee wishes to submit a Supplement and assure that, after receipt, it will be properly placed by FRA in a file with the railroad's Rail Equipment Accident/Incident Report and that it will be required to be reviewed by the railroad that issued the Notice, the Supplement must be made on part II of Form FRA F 6180.78 (entitled "Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor; Employee Statement Supplementing Railroad Accident Report"), following the instructions printed on the form. These instructions require that, within 35 days of the date that the Notice was hand delivered or sent by first class mail (postage prepaid) to the employee (except for good cause shown), the original of the Supplement be filed with FRA and a copy be hand delivered or sent by first class mail (postage prepaid) to the railroad that issued the Notice so that the railroad will have an opportunity to reassess its reports to FRA concerning the accident.

(3) Information that the employee wishes to withhold from the railroad must not be included in this Supplement. If an employee wishes to provide confidential information to FRA, the employee should not use the Supplement form (part II of Form FRA F 6180.78), but rather provide such confidential information by other means, such as a letter to the employee's collective bargaining representative, or to the Federal Railroad Administration, Office of Safety Assurance and Compliance, RRS-11, 400 Seventh Street, S.W., Washington, D.C. 20590. The letter should include the name of the railroad making the allegations, the date and place of the accident, and the rail equipment accident/incident number.

(h) Willful false statements; penalties. If an employee chooses to submit a Supplement to FRA, all of the employee's assertions in the Supplement must be true and correct to the best of the employee's knowledge and belief.
(1) Under 49 U.S.C. 21301, 21302, and 21304, any person who willfully files a false Supplement with FRA is subject to a civil penalty. See Appendix A to this part.
(2) Any person who knowingly and willfully files a false Supplement is subject to a $5,000 fine, or up to two years" imprisonment, or both, under 49 U.S.C. 21311.
[55 FR 37827, Sept. 13, 1990; 55 FR 39538, Sept. 27, 1990; 61 FR 30940, June 18, 1996]

225.13

Late reports.

Whenever a railroad discovers that a report of an accident/incident, through mistake or otherwise, has been improperly omitted from or improperly reported on its regular monthly accident/incident report, a report covering this accident/incident together with a letter of explanation must be submitted immediately. Whenever a railroad receives a partially or fully completed Employee Statement Supplementing Railroad Accident Report (part II of Form FRA F 6180.78), in response to a Notice to Railroad Employee (part I of Form FRA F 6180.78) issued by the railroad and mailed or hand delivered to the employee, the railroad must promptly review that Supplement; based on that review,

reassess the accuracy and validity of the railroad's Rail Equipment Accident/Incident Report and of any other reports and records required by this part concerning the same accident, including the Employee Human Factor Attachment; make all justified revisions to each of those reports and records; submit any amended reports to FRA; and submit a copy of any amended Rail Equipment Accident/Incident Report, Employee Human Factor Attachment, and Highway-Rail Grade Crossing Accident/Incident Report on the accident to the employee. A second notice under §225.12 is not required for the employee. If an employee who was never sent a notice under §225.12 for that accident is implicated in the revised Employee Human Factor Attachment, the railroad must follow the procedures of §225.12(d).
[39 FR 43224, Dec. 11, 1974, as amended at 55 FR 37828, Sept. 13, 1990; 61 FR 30940, June 18, 1996]

225.15

Accidents/incidents not to be reported.

A railroad need not report:

(a) Casualties which occur at highway-rail grade crossings that do not involve the presence or operation of on-track equipment, or the presence of railroad employees then engaged in the operation of a railroad;

(b) Casualties in or about living quarters not arising from the operation of a railroad;

(c) Suicides as determined by a coroner or other public authority; or
225.15(d)

(d) Attempted suicides.
[61 FR 30940, June 18, 1996]

225.17

Doubtful cases; alcohol or drug involvement.

(a) The reporting officer of a railroad will ordinarily determine the reportability or nonreportability of an accident/incident after examining all evidence available. The FRA, however, cannot delegate authority to decide matters of judgment when facts are in dispute. In all such cases the decision shall be that of the FRA.

(b) Even though there may be no witness to an accident/incident, if there is evidence indicating that a reportable accident/incident may have occurred, a report of that accident/incident must be made.

(c) All accidents/incidents reported as "claimed but not admitted by the railroad" are given special examination by the FRA, and further inquiry may be ordered.

Accidents/incidents accepted as reportable are tabulated and included in the various statistical statements issued by the FRA. The denial of any knowledge or refusal to admit responsibility by the railroad does not exclude those accidents/incidents from monthly and annual figures. Facts stated by a railroad that tend to refute the claim of an injured person are given consideration, and when the facts seem sufficient to support the railroad's position, the case is not allocated to the reporting railroad.

(d)
(1) In preparing a Rail Equipment Accident/Incident Report under this part, the railroad shall make such specific inquiry as may be reasonable under the circumstances into the possible involvement of alcohol or drug use or impairment in such accident or incident. If the railroad comes into possession of any information whatsoever, whether or not confirmed, concerning alleged alcohol or drug use or impairment by an employee who was involved in, or arguably could be said to have been involved in, the accident/incident, the railroad shall report such alleged use or impairment as provided in the current FRA Guide for Preparing Accident/Incident Reports. If the railroad is in possession of such information but does not believe that alcohol or drug impairment was the primary or contributing cause of the accident/incident, then the railroad shall include in the narrative statement of such report a brief explanation of the basis of such determination.

(2) For any train accident within the requirement for post-accident testing under §219.201 of this title, the railroad shall append to the Rail Equipment Accident/Incident Report any report required by §219.209(b) (pertaining to failure to obtain samples for post-accident toxicological testing).

(3) For any train or non-train incident, the railroad shall provide any available information concerning the possible involvement of alcohol or drug use or impairment in such accident or incident.

(4) In providing information required by this paragraph, a railroad shall not disclose any information concerning use of controlled substances determined by the railroad's Medical Review Officer to have been consistent with 49 CFR 219.103.
[39 FR 43224, Dec. 11, 1974, as amended at 50 FR 31579, Aug. 2, 1985; 54 FR 53279, Dec. 27, 1989]

225.19

Primary groups of accidents/incidents.

(a) For reporting purposes reportable railroad accidents/incidents are divided into three groups:
Group I-Highway-Rail Grade Crossing;
Group II-Rail Equipment;
Group III-Death, Injury and Occupational Illness.

(b) Group I-Highway-rail grade crossing. Each highway-rail grade crossing accident/incident must be reported to the FRA on Form FRA F 6180.57, regardless of the extent of damages or whether a casualty occurred. In addition, whenever a highway-rail grade crossing accident/incident results in damages greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, or roadbed, that accident/incident shall be reported to the FRA on Form FRA F 6180.54. For reporting purposes, damages include labor costs and all other costs to repair or replace in kind damaged on-track equipment, signals, track, track structures, or roadbed, but do not include the cost of clearing a wreck.

(c)Group II - Rail equipment. Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (i.e., $6,300 for calendar years 1991 through 1966, $6,500 for calendar year 1997, and $6,700 for calendar years 2002 and 2003 and, until further notice, for calendar years thereafter) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. Each rail equipment accident/incident must be reported to the FRA on Form FRA F 6180.54. If the property of more than one railroad is involved in an accident/incident, the reporting threshold is calculated by including the damages suffered by all of the railroads involved. See §225.23, Joint Operations. The reporting threshold will be reviewed periodically, and, if necessary, will be adjusted every year.

(d) Group III - Death, injury, or occupational illness. Each event or exposure arising from the operation of a railroad shall be reported on Form FRA F 6180.55a if the event or exposure is a discernable cause of one or more of the following outcomes, and this outcome is a new case or a significant aggravation of a pre-existing injury or illness:

(1) Death to any person;
(2) Injury to any person that results in medical treatment;
(3) Injury to a railroad employee that results in:
(i) A day away from work;
(ii) Restricted work activity or job transfer; or
(iii) Loss of consciousness;
(4) Occupational illness of a railroad employee that results in any of the following:
(i) A day away from work;
(ii) Restricted work activity or job transfer;
(iii) Loss of consciousness; or
(iv) Medical treatment;
(5) Significant injury to or significant illness of a railroad employee diagnosed by a physician or other licensed health care professional even if it does not result in death, a day away from work, restricted work activity or job transfer, medical treatment, or loss of consciousness;
(6) Illness or injury that meets the application of any of the following specific case criteria:

(i) Needlestick or sharps injury to a railroad employee;
(ii) Medical removal of a railroad employee;
(iii) Occupational hearing loss of a railroad employee;
(iv) Occupational tuberculosis of a railroad employee; or
(v) Musculoskeletal disorder of a railroad employee if this disorder is independently reportable under one or more of the general reporting criteria.
(e) The reporting threshold is $6,300 for calendar years 1991 through 1996. The reporting threshold is $6,500 for calendar year 1997, $6,600 for calendar years 1998 through 2001, and $6,700 for calendar years 2002 and 2003 and, until further notice, for calendar years thereafter. The procedure for determining the reporting threshold for calendar years 1997 through 2002 appears as paragraphs 1-9 of appendix B to part 225. The primary rationale for the reporting threshold established for calendar year 2003 and, until further notice, for subsequent calendar years, appears as paragraph 10 of appendix B to part 225.
(Secs. 11144 and 11145, Subtitle IV of Title 49 (49 U.S.C. 11144 and 11145); secs. 1 and 6, Accident Reports Act (45 U.S.C. 431 and 437); sec. 6(e) and (f), Department of Transportation Act (49 U.S.C. 1655(e) and (f)); sec. 1.49(g) and (m), regulations of the Office of the Secretary of Transportation (49 CFR 1.49(g) and (m))
[39 FR 43224, Dec. 11, 1974, as amended at 41 FR 50691, Nov. 17, 1976; 42 FR 1221, Jan. 6, 1977; 47 FR 56358, Dec. 16, 1982; 51 FR 47019, Dec. 30, 1986; 53 FR 48548, Dec. 1, 1988; 55 FR 52847, Dec. 21, 1990; 61 FR 30940, June 18, 1996; 61 FR 60632, November 29, 1996; 62 FR 63675, December 02, 1997; 63 FR 71790, December 30, 1998; 65 FR 69884, November 21, 2000; 66 FR 66346, December 26, 2001; 67 FR 79533, December 30, 2002; 68 FR 10108, March 03, 2003]

225.21

Forms.

The following forms and copies of the FRA Guide for Preparing Accident/Incident Reports may be obtained from the Office of Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590.

(a) Form FRA F 6180.54-Rail Equipment Accident/Incident Report. Form FRA F 6180.54 shall be used to report each reportable rail equipment accident/incident which occurred during the preceding month.

(b) Form FRA F 6180.55-Railroad Injury and Illness Summary. Form FRA F 6180.55 must be filed each month, even though no reportable accident/incident occurred during the month covered. Each report must include an oath or verification, made by the proper officer of the reporting railroad, as provided for attestation on the form. If no reportable accident/incident occurred during the month, that fact must be stated on this form. All railroads subject to this part, shall show on this form the total number of freight train miles, passenger train miles, yard switching train miles, and other train miles run during the month.

(c) Form FRA 6180.55a-Railroad Injury and Illness (Continuation Sheet). Form FRA 6180.55a shall be used to report all reportable fatalities, injuries and occupational illnesses that occurred during the preceding month.

(d) Form FRA 6180.56-Annual Railroad Report of Manhours by State. Form FRA 6180.56 shall be submitted as part of the monthly Railroad Injury and Illness Summary (Form FRA F 6180.55) for the month of December of each year.

(e) Form FRA F 6180.57-Highway-Rail Grade Crossing Accident/Incident Report. Form FRA F 6180.57 shall be used to report each highway-rail grade crossing accident/incident which occurred during the preceding month.

(f) Form FRA F 6180.81-Employee Human Factor Attachment. Form FRA F 6180.81 shall be used by railroads, as a supplement to the Rail Equipment Accident/Incident Report (Form FRA F 6180.54), in reporting rail equipment accidents/incidents that they attribute to an employee human factor. This form shall be completed in accordance with instructions printed on the form and in the current "FRA Guide for Preparing Accident/Incident Reports." The form shall be attached to the Rail Equipment Accident/Incident Report and shall be submitted within 30 days after expiration of the month in which the accident/incident occurred.

(g) Form FRA F 6180.78-Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor; Employee Statement Supplementing Railroad Accident Report. When a railroad alleges, in the Employee Human Factor Attachment to a Rail Equipment Accident/Incident Report, that the act, omission, or physical condition of a specific employee was a primary or contributing cause of the rail equipment accident/incident, the railroad shall complete part I of Form FRA F 6180.78 to notify each such employee identified that the railroad has made such allegation and that the employee has the right to submit a statement to FRA. The railroad shall then submit the entire form, parts I and II, to the employee. The Employee Statement Supplementing Railroad Accident Report (Employee Supplement) is completely at the option of the employee; however, if the employee desires to make a statement about the accident that will become part of the railroad's Rail Equipment Accident/Incident Report, the employee shall complete the Employee Supplement form (part II of Form FRA F 6180.78) and shall then submit the original of the entire form, parts I and II, and any attachments, to FRA and submit a copy of the same to the railroad that issued the Notice in part I.

(h) Form FRA F 6180.98-Railroad Employee Injury and/or Illness Record. Form FRA F 6180.98 or an alternative railroad-designed record shall be used by the railroads to record all reportable and accountable injuries and illnesses to railroad employees for each establishment. This record shall be completed and maintained in accordance with the requirements set forth in section 225.25.

(i) Form FRA F 6180.97-Initial Rail Equipment Accident/Incident Record. Form FRA F 6180.97 or an alternative railroad-designed record shall be used by the railroads to record

all reportable and accountable rail equipment accidents/incidents for each establishment. This record shall be completed and maintained in accordance with the requirements set forth in § 225.25.

(j) Form FRA 6180.107 - Alternative Record for Illnesses Claimed to Be Work-Related.
(1) Form FRA F 6180.107 shall be used by a railroad to record each illness claimed to be work-related that is reported to the railroad -
225.21(j)(1)(i)
(i) For which there is insufficient information to determine whether the illness is work-related;
(ii) For which the railroad has made a preliminary determination that the illness is not work-related; or
(iii) For which the railroad has made a final determination that the illness is not work-related.
(2) For any case determined to be reportable, the designation "illness claimed to be work-related" shall be removed, and the record shall be transferred to the reporting officer for retention and reporting in the normal manner.
(3) In the event the narrative block (similar to Form FRA F 6180.98, block39) indicates that the case is not reportable, the explanation contained on that block shall record the reasons the railroad determined that the case is not reportable, making reference to the most authoritative information relied upon.
(4) Although the Form FRA F 6180.107 may not include all supporting documentation, such as medical records, the Form FRA F 6180.107 shall note the name, title, and address of the custodian of those documents and where the supporting documents are located so that they are readily accessible to FRA upon request.
[39 FR 43224, Dec. 11, 1974, as amended at 42 FR 1221, Jan. 6, 1977; 49 FR 48939, Dec. 17, 1984; 55 FR 37828, Sept. 13, 1990; 61 FR 30940, June 18, 1996; 68 FR 10108, March 03, 2003]

225.23

Joint operations.

(a) Any reportable death, injury, or illness of an employee arising from an accident/incident involving joint operations must be reported on Form FRA F 6180.55a by the employing railroad.

(b) In all cases involving joint operations, each railroad must report on Form FRA F 6180.55a the casualties to all persons on its train or other on-track equipment. Casualties to railroad employees must be reported by the employing railroad regardless of whether the employees were on or off duty. Casualties to all other persons not on trains or on-track equipment must be reported on Form FRA F 6180.55a by the railroad whose train or equipment is involved. Any person found unconscious or dead, if such condition arose

from the operation of a railroad, on or adjacent to the premises or right-of-way of the railroad having track maintenance responsibility must be reported by that railroad on Form FRA F 6180.55a.

(c) In rail equipment accident/incident cases involving joint operations, the railroad responsible for carrying out repairs to, and maintenance of, the track on which the accident/incident occurred, and any other railroad directly involved in the accident/incident, each must report the accident/incident on Form FRA F 6180.54.

[39 FR 43224, Dec. 11, 1974, as amended at 42 FR 1221, Jan. 6, 1977; 68 FR 10108, March 03, 2003]

225.25

Recordkeeping.

(a) Each railroad shall maintain either the Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) or an alternative railroad-designed record as described in paragraph (b) of this section of all reportable and accountable injuries and illnesses of its employees that arise from the operation of the railroad for each railroad establishment where such employees report to work, including, but not limited to, an operating division, general office, and major installation such as a locomotive or car repair or construction facility.

(b) The alternative railroad-designed record may be used in lieu of the Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) described in paragraph (a) of this section. Any such alternative record shall contain all of the information required on the Railroad Employee Injury and/or Illness Record. Although this information may be displayed in a different order from that on the Railroad Employee Injury and/or Illness Record, the order of the information shall be consistent from one such record to another such record. The order chosen by the railroad shall be consistent for each of the railroad"s reporting establishments. Railroads may list additional information on the alternative record beyond the information required on the Railroad Employee Injury and/or Illness Record. The alternative record shall contain, at a minimum, the following information:

(1) Name of railroad;

(2) Case/incident number;

(3) Full name of railroad employee;

(4) Date of birth of railroad employee;

(5) Gender of railroad employee;

(6) Employee identification number or, in the alternative, Social Security Number of railroad employee;

(7) Date the railroad employee was hired;

(8) Home address of railroad employee; include the street address, city, State, ZIP code, and home telephone number with area code;

(9) Name of facility where railroad employee normally reports to work;

(10) Address of facility where railroad employee normally reports to work; include the street address, city, State, and ZIP code;

(11) Job title of railroad employee;

(12) Department assigned;

(13) Specific site where accident/incident/exposure occurred; include the city, county, State, and ZIP code;
(14) Date and time of occurrence; military time or AM/PM;

(15) Time employee's shift began; military time or AM/PM;

(16) Whether employee was on premises when injury, illness, or condition occurred;

(17) Whether employee was on or off duty;

(18) Date and time when employee notified company personnel of condition; military time or AM/PM;

(19) Name and title of railroad official notified;

(20) Description of the general activity this employee was engaged in prior to the injury/illness/condition;

(21) Description of all factors associated with the case that are pertinent to an understanding of how it occurred. Include a discussion of the sequence of events leading up to it; and the tools, machinery, processes, material, environmental conditions, etc., involved;

(22) Description, in detail, of the injury/illness/condition that the employee sustained, including the body parts affected. If a recurrence, list the date of the last occurrence;

(23) Identification of all persons and organizations used to evaluate or treat the condition, or both. Include the facility, provider and complete address;

(24) Description of all procedures, medications, therapy, etc., used or recommended for the treatment of the condition.

(25) Extent and outcome of injury or illness to show the following as applicable:
(i) Fatality-enter date of death;
(ii) Restricted work; number of days; beginning date;
(iii) Occupational illness; date of initial diagnosis;
(iv) Instructions to obtain prescription medication, or receipt of prescription medication;
(v) If one or more days away from work, provide the number of days away and the beginning date;
(vi) Medical treatment beyond "first aid";
(vii) Hospitalization for treatment as an inpatient;
(viii) Multiple treatments or therapy sessions;
(ix) Loss of consciousness;
(x) Transfer to another job or termination of employment;
(xi) Significant injury or illness of a railroad employee;
(xii) Needlestick or sharps injury to a railroad employee, medical removal of a railroad employee, occupational hearing loss of a railroad employee, occupational tuberculosis of a railroad employee, or musculoskeletal disorder of a railroad employee which musculoskeletal disorder is reportable under one or more of the general reporting criteria.

(26) Each railroad shall indicate if the Railroad Injury and Illness Summary (Continuation Sheet) (FRA Form F 6180.55a) has been filed with FRA for the injury or illness. If FRA Form F 6180.55a was not filed with FRA, then the railroad shall provide an explanation of the basis for its decision.

(27) The reporting railroad shall indicate if the injured or ill railroad employee was provided an opportunity to review his or her file; and

(28) The reporting railroad shall identify the preparer's name; title; telephone number with area code; and the date the log entry was completed.

(c) Each railroad shall provide the employee, upon request, a copy of either the completed Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) or the alternative railroad-designed record as described in paragraphs (a) and (b) of this section as well as a copy of forms or reports required to be maintained or filed under this part pertaining to that employee's own work-related injury or illness.

(d) Each railroad shall maintain the Initial Rail Equipment Accident/Incident Record (Form FRA F 6180.97) or an alternative railroad-designed record as described in paragraph (e) of this section of reportable and accountable collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment, signals, track, or track equipment (standing or moving) that result in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and all other costs for repairs or replacement in kind for each railroad establishment where workers report to work, including, but not limited to, an operating division, general office, and major installation such as a locomotive or car repair or construction facility.

(e) The alternative railroad-designed record may be used in lieu of the Initial Rail Equipment Accident/Incident Record (Form FRA F 6180.97). Any such alternative record shall contain all of the information required on the Initial Rail Equipment Accident/Incident Record. Although this information may be displayed in a different order from that on the Initial Rail Equipment Accident/Incident Record, the order of the information shall be consistent from one such record to another such record. The order chosen by the railroad shall be consistent for each of the railroad's reporting establishments. Railroads may list additional information in the alternative record beyond the information required on the Initial Rail Equipment Accident/Incident Record. The alternative record shall contain, at a minimum, the following information:
(1) Date and time of accident;
(2) Reporting railroad, and accident/incident number;
(3) Other railroad, if applicable, and other railroad's accident/incident number;
(4) Railroad responsible for track maintenance, and that railroad's incident number;
(5) Type of accident/incident (derailment, collision, etc.);
(6) Number of cars carrying hazardous materials that derailed or were damaged; and number of cars carrying hazardous materials that released product;
(7) Division;
(8) County and nearest city or town;
(9) State;
(10) Milepost (to the nearest tenth);
(11) Specific site;
(12) Speed (indicate if actual or estimate);
(13) Train number or job number;
(14) Type of equipment (freight, passenger, yard switching, etc.);
(15) Type of track (main, yard, siding, industry);
(16) Total number of locomotives in train;
(17) Total number of locomotives that derailed;
(18) Total number of cars in train;
(19) Total number of cars that derailed;
(20) Total amount of damage in dollars to equipment based on computations as described in the "FRA Guide for Preparing Accidents/Incidents Reports";
(21) Total amount of damage in dollars to track, signal, way and structures based on computations as described in the "FRA Guide for Preparing Accidents/Incidents Reports";
(22) Primary cause;
(23) Contributing cause;
(24) Persons injured, persons killed, and employees with an occupational illness, broken down into the following classifications: worker on duty - employee; employee not on duty; passenger on train; nontrespasser - on railroad property; trespasser; worker on duty - contractor; contractor - other; worker on duty - volunteer; volunteer - other; and nontrespasser-off railroad property;
(25) Narrative description of the accident;
(26) Whether the accident/incident was reported to FRA;
(27) Preparer's name, title, telephone number with area code, and signature; and

(28) Date the report was completed.

(f) Each railroad shall enter each reportable and accountable injury and illness and each reportable and accountable rail equipment accident/incident on the appropriate record, as required by paragraphs (a) through (e) of this section, as early as practicable but no later than seven working days after receiving information or acquiring knowledge that an injury or illness or rail equipment accident/incident has occurred.

(g) The records required under paragraphs (a) through (e) of this section may be maintained at the local establishment or, alternatively, at a centralized location. If the records are maintained at a centralized location, but not through electronic means, then a paper copy of the records that is current within 35 days of the month to which it applies shall be available for that establishment. If the records are maintained at a centralized location through electronic means, then the records for that establishment shall be available for review in a hard copy format within four business hours of FRA's request. FRA recognizes that circumstances outside the railroad's control may preclude it from fulfilling the four-business-hour time limit. In these circumstances, FRA will not assess a monetary penalty against the railroad for its failure to provide the requested documentation provided the railroad made a reasonable effort to correct the problem.

(h) Except as provided in paragraph (h)(15) of this section, a listing of all injuries and occupational illnesses reported to FRA as having occurred at an establishment shall be posted in a conspicuous location at that establishment, within 30 days after the expiration of the month during which the injuries and illnesses occurred, if the establishment has been in continual operation for a minimum of 90 calendar days. If the establishment has not been in continual operation for a minimum of 90 calendar days, the listing of all injuries and occupational illnesses reported to FRA as having occurred at the establishment shall be posted, within 30 days after the expiration of the month during which the injuries and illnesses occurred, in a conspicuous location at the next higher organizational level establishment, such as one of the following: an operating division headquarters; a major classification yard or terminal headquarters; a major equipment maintenance or repair installation, e.g., a locomotive or rail car repair or construction facility; a railroad signal and maintenance-of-way division headquarters; or a central location where track or signal maintenance employees are assigned as a headquarters or receive work assignments. These examples include facilities that are generally major facilities of a permanent nature where the railroad generally posts or disseminates company informational notices and policies, e.g., the policy statement in the internal control plan required by § 225.33 concerning harassment and intimidation. At a minimum, "establishment" posting is required and shall include locations where a railroad reasonably expects its employees to report during a 12-month period and to have the opportunity to observe the posted list containing any reportable injuries or illnesses they have suffered during the applicable period. This listing shall be posted and shall remain continuously displayed for the next twelve consecutive months. Incidents reported for employees at that establishment shall be displayed in date sequence. The listing shall contain, at a minimum, the information specified in paragraphs (h)(1) through (14) of this section.

(1) Name and address of the establishment;
(2) Calendar year of the cases being displayed;
(3) Incident number used to report case;
(4) Date of the injury or illness;
(5) Location of incident;
(6) Regular job title of employee injured or ill;
(7) Description of the injury or condition;
(8) Number of days employee absent from work at time of posting;
(9) Number of days of work restriction for employee at time of posting;
(10) If fatality-enter date of death;
(11) Annual average number of railroad employees reporting to this establishment;
(12) Preparer's name, title, telephone number with area code, and signature (or, in lieu of signing each establishment's list of reportable injuries and illnesses, the railroad's preparer of this monthly list may sign a cover sheet or memorandum which contains a list of each railroad establishment for which a monthly list of reportable injuries and illnesses has been prepared. This cover memorandum shall be signed by the preparer and shall have attached to it a duplicate copy of each establishment's list of monthly reportable injuries and illnesses. The preparer of the monthly lists of reportable injuries and illnesses shall mail or send by facsimile each establishment's list to the establishment in the time frame prescribed in paragraph (h) of this section.); and
(13) (13) Date the record was completed.
(14) When there are no reportable injuries or occupational illnesses associated with an establishment for that month, the listing shall make reference to this fact.
(15) The railroad is permitted not to post information on an occupational injury or illness that is a privacy concern case.

(i) Claimed Occupational Illnesses.
(225.25(i)(1)
(1) Each railroad shall maintain either the Form FRA F 6180.107, to the extent that the information is reasonably available, or an alternate railroad-designed record containing the same information as called for on the Form FRA F 6180.107, to the extent that the information is reasonably available, for each illness claimed to be work-related -
(i) For which there is insufficient information to determine whether the illness is work-related;
(ii) For which the railroad has made a preliminary determination that the illness is not work-related; or
(iii) For which the railroad has made a final determination that the illness is not work-related.

225.25(i)(2)
(2) For any case determined to be reportable, the designation "illness claimed to be work-related" shall be removed, and the record shall be transferred to the reporting officer for retention and reporting in the normal manner.
(3) In the eventthe narrative block (similar to Form FRA F 6180.98, block 39) indicates that the case is not reportable, the explanation contained on that block shall record the

reasons the railroad determined that the case is not reportable, making reference to the most authoritative information relied upon.
(4) In the event the railroad must amend the record with new or additional information, the railroad shall have up until December 1 of the next calendar year for reporting accidents/incidents to make the update.
(5) Although the Alternative Record for Illnesses Claimed to be Work-Related (or the alternate railroad-designed form) may not include all supporting documentation, such as medical records, the alternative record shall note the custodian of those documents and where the supporting documents are located so that they are readily accessible to FRA upon request.
[61 FR 30940, June 18, 1996; 61 FR 59368, November 22, 1996; 61 FR 67477, December 23, 1996; 68 FR 10108, March 03, 2003]

225.27

Retention of records.

(a) Each railroad shall retain the Railroad Employee Injury and/or Illness Record and the Monthly List of Injuries and Illnesses required by 225.25 for at least five years after the end of the calendar year to which it relates. Each railroad shall retain the Initial Rail Equipment Accident/Incident Record required by 225.25 for at least two years after the end of the calendar year to which they relate. Each railroad must retain the Employee Human Factor Attachments required by §225.12, the written notices to employees required by §225.12, and the Employee Statements Supplementing Railroad Accident Reports described in §225.12(g) that have been received by the railroad for at least 2 years after the end of the calendar year to which they relate.

(b) Each railroad must retain a duplicate of each form it submits to FRA under §225.21, for at least 2 years after the calendar year to which it relates.
[39 FR 43224, Dec. 11, 1974, as amended at 55 FR 37828, Sept. 13, 1990; 61 FR 30940, June 18, 1996; 61 FR 67477, December 23, 1996]

225.29

Penalties.

Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least $550 and not more than $11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed

$27,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See Appendix A to this part for a statement of agency civil penalty policy. A person may also be subject to the criminal penalties provided for in 49 U.S.C. 21311.
[53 FR 28601, July 28, 1988, as amended at 53 FR 52931, Dec. 29, 1988; 61 FR 30940, June 18, 1996; 63 FR 11618, March 10, 1998; 69 FR 30591, May 28, 2004]

225.31

Investigations.

(a) It is the policy of the FRA to investigate rail transportation accidents/incidents which result in the death of a railroad employee or the injury of five or more persons. Other accidents/incidents are investigated when it appears that an investigation would substantially serve to promote railroad safety.

(b) FRA representatives are authorized to investigate accidents/incidents and have been issued credentials authorizing them to inspect railroad records and properties. They are authorized to obtain all relevant information concerning accidents/incidents under investigation, to make inquiries of persons having knowledge of the facts, conduct interviews and inquiries, and attend as an observer, hearings conducted by railroads. When necessary to carry out an investigation, the FRA may authorize the issuance of subpoenas to require the production of records and the giving of testimony.

(c) Whenever necessary, the FRA will schedule a public hearing before an authorized hearing officer, in which event testimony will be taken under oath, a record made, and opportunity provided to question witnesses.

(d) When necessary in the conduct of an investigation, the Federal Railroad Administrator may require autopsies and other tests of the remains of railroad employees who die as a result of an accident/incident.

(e) Information obtained through FRA accident investigations may be published in public reports or used for other purposes FRA deems to be appropriate.

(f) Section 20903 of title 49 of the United States Code provides that no part of a report of an accident investigation under section 20902 of title 49 of the United States Code may be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in the accident investigation report.
[61 FR 30940, June 18, 1996]

225.33

Internal Control Plans.

(a) Each railroad shall adopt and comply with a written Internal Control Plan that shall be maintained at the office where the railroad's reporting officer conducts his or her official business. Each railroad shall amend its Internal Control Plan, as necessary, to reflect any significant changes to the railroad's internal reporting procedures. The Internal Control Plan shall be designed to maintain absolute accuracy and shall include, at a minimum, each of the following components:

(1) A policy statement declaring the railroad's commitment to complete and accurate reporting of all accidents, incidents, injuries, and occupational illnesses arising from the operation of the railroad, to full compliance with the letter and spirit of FRA's accident reporting regulations, and to the principle, in absolute terms, that harassment or intimidation of any person that is calculated to discourage or prevent such person from receiving proper medical treatment or from reporting such accident, incident, injury or illness will not be permitted or tolerated and will result in some stated disciplinary action against any employee, supervisor, manager, or officer of the railroad committing such harassment or intimidation.

(2) The dissemination of the policy statement; complaint procedures. Each railroad shall provide to all employees, supervisory personnel, and management the policy statement described in paragraph (a)(1). Each railroad shall have procedures to process complaints from any person about the policy stated in paragraph (a)(1) being violated, and to impose the appropriate prescribed disciplinary actions on each employee, supervisor, manager, or officer of the railroad found to have violated the policy. These procedures shall be disclosed to railroad employees, supervisors, managers, and officers. The railroad shall provide "whistle blower" protection to any person subject to this policy, and such policy shall be disclosed to all railroad employees, supervisors and management.

(3) Copies of internal forms and/or a description of the internal computer reporting system used for the collection and internal recording of accident and incident information.

(4) A description of the internal procedures used by the railroad for the processing of forms and/or computerized data regarding accident and incident information.

(5) A description of the internal review procedures applicable to accident and incident information collected, and reports prepared by, the railroad's safety, claims, medical and/or other departments engaged in collecting and reporting accident and incident information.

(6) A description of the internal procedures used for collecting cost data and compiling costs with respect to accident and incident information.

(7) A description of applicable internal procedures for ensuring adequate communication between the railroad department responsible for submitting accident and incident reports to FRA and any other department within the railroad responsible for collecting, receiving, processing and reporting accidents and incidents.

(8) A statement of applicable procedures providing for the updating of accident and incident information prior to reporting to FRA and a statement of applicable procedures providing for the amendment of accident and incident information as specified in the "FRA Guide for Preparing Accidents/Incidents Reports."

(9) A statement that specifies the name and title of the railroad officer responsible for auditing the performance of the reporting function; a statement of the frequency (not less than once per calendar year) with which audits are conducted; and identification of the site where the most recent audit report may be found for inspection and photocopying.

(10)(i) A brief description of the railroad organization, including identification of:

(A) All components that regularly come into possession of information pertinent to the preparation of reports under this part (e.g., medical, claims, and legal departments; operating, mechanical, and track and structures departments; payroll, accounting, and personnel departments);

(B) The title of each railroad reporting officer;

(C) The title of each manager of such components, by component; and

(D) All officers to whom managers of such components are responsible, by component.

(ii) A current organization chart satisfies paragraphs (a)(10)(i) (B), (C), and (D) of this section.

(11) In the case of the Form FRA F 6180.107 or the alternate railroad-designed form, a statement that specifies the name, title, and address of the custodian of these records, all supporting documentation, such as medical records, and where the documents are located.

225.33(b)

(b) [Reserved]
[61 FR 30940, June 18, 1996; 61 FR 59368, November 22, 1996; 61 FR 67477, December 23, 1996; 68 FR 10108, March 03, 2003]

225.35

Access to records and reports.

(a) Each railroad subject to this part shall have at least one location, and shall identify each location, where any representative of the Federal Railroad Administration or of a State agency participating in investigative and surveillance activities under Part 212 of this chapter or any other authorized representative, has centralized access to a copy of

any record and report required under this part, for examination and photocopying in a reasonable manner during normal business hours.

(b) Each railroad subject to this part shall also provide to any representative of the Federal Railroad Administration or of a State agency participating in investigative or and surveillance activities under part 212 of this chapter or any other authorized representative access to relevant medical and claims records for examination and photocopying in a reasonable manner during normal business hours. Such representatives shall display proper credentials when requested. Each railroad shall identify the locations where a copy of any record and report required under this part is accessible for inspection and photocopying by maintaining a list of such establishment locations at the office where the railroad's reporting officer conducts his or her official business. A copy of any record and report required under this part shall be accessible within four business hours after the request. The Form FRA F 6180.107 or the alternate railroad-designed form need not be provided at any railroad establishment within 4 hours of a request. Rather, the Form FRA F 6180.107 or the alternate railroad-designed form must be provided upon request, within five business days, and may be kept at a central location, in either paper or electronic format. FRA will not assess a monetary penalty against the railroad for its failure to provide the requested documentation when circumstances outside the railroad's control preclude it from fulfilling the four-business-hour time limit and the railroad has made a reasonable effort to correct the problem. Should a railroad assert a legal privilege with respect to certain claims and medical records, failure to provide FRA access to such records would not constitute a violation of this section. FRA retains the right to issue a subpoena to obtain such records under 49 U.S.C. §§ 20107 and 20902 and §§ 209.7(a) and 225.31(b) of this title, and the railroad may contest that subpoena.
[61 FR 30940, June 18, 1996; 61 FR 59368, November 22, 1996; 68 FR 10108, March 03, 2003]

225.37

Magnetic media transfer and electronic submission.

(a) A railroad has the option of submitting the following reports, updates, and amendments by way of magnetic media (computer diskette or magnetic tape), or by means of electronic submission over telephone lines or other means:
(1) The Rail Equipment Accident/Incident Report (Form FRA F 6180.54);
(2) the Railroad Injury and Illness Summary (Form FRA F 6180.55);
(3) the Railroad Injury and Illness Summary (Continuation Sheet) (Form FRA F 6180.55a);
(4) the Highway-Rail Grade Crossing Accident/Incident Report (Form FRA F 6180.57); and
(5) the Batch Control Form (Form FRA F 6180.99).

(b) Each railroad utilizing the magnetic media option shall submit to FRA the following: 225.37(b)(1)
(1) the computer diskette or magnetic tape;

(2) the Batch Control Form (Form FRA F 6180.99); and
(3) a notarized hard copy of the Railroad Injury and Illness Summary (Form FRA F 6180.55), signed by the railroad's reporting officer.

(c) Each railroad utilizing the electronic submission option shall submit to FRA the following:
(1) the Batch Control Form (Form FRA F 6180.99) which is submitted to an FRA-designated computer; and
(2) a notarized hard copy of the Railroad Injury and Illness Summary (Form FRA F 6180.55), signed by the railroad's reporting officer.

(d) Each railroad employing either the magnetic media or electronic submission option, shall submit its monthly reporting data for the reports identified in paragraph (a) of this section in a year-to-date file format as described in the "FRA Guide for Preparing Accidents/Incidents Reports."

(e) In addition to fulfilling the requirements stated in paragraph (b) through (d) of this section, each railroad initially utilizing either the magnetic media or electronic submission option, shall submit the hard copy report(s) for each accident/incident it reports by such means. FRA will continually review the railroad"s submitted hard copy reports against the data it has submitted electronically, or by means of magnetic media. Once the magnetic media or electronic submission is in total agreement with the submitted hard copies of the reports for three consecutive reporting months, FRA will notify the railroad, in writing, that submission of the hard copy reports, except for the notarized Railroad Injury and Illness Summary, is no longer required.
[61 FR 30940, June 18, 1996]

225.39

FRA policy on covered data.

FRA will not include covered data (as defined in § 225.5) in its periodic summaries of data on the number of occupational injuries and illnesses.
Source: 68 FR 10108, March 03, 2003

225 App A
Appendix A to Part 225 - Schedule of Civil Penalties1

Section (including computer code, if applicable)	Violation	Willful violation
225.9 Telephonic reports of certain accidents/incidents	$1,000	$2,000
225.11 Reports of accidents/ incidents	2,500	5,000
225.12(a): Failure to file Railroad Employee Human Factor Attachment properly		

(1) Employee identified	2,500	5,000
(2) No employee identified	1,000	2,000
225.12(b):		
(1) Failure to notify employee properly	2,500	5,000
(2) Notification of employee not involved in accident	2,500	5,000
225.12(c):		
Failure of employing railroad to provide requested information properly	1,000	2,000
225.12(d):		
(1) Failure to revise report when identity becomes known	2,500	5,000
(2) Failure to notify after late identification	2,500	5,000
225.12(f)(1):		
Submission of notice if employee dies as result of the reported accident	2,500	5,000
225.12(g):		
Willfully false accident statement by employee		5,000
225.13 Late reports	2,500	5,000
225.17(d) Alcohol or drug involvement	2,500	5,000
225.23 Joint operations	(1)	(1)
225.25 Recordkeeping	2,500	5,000
225.27 Retention of records	1,000	2,000
225.33:		
(1) Failure to adopt the Internal Control Plan	2,500	5,000
(2) Inaccurate reporting due to failure to comply with the Internal Control Plan	2,500	5,000
(3) Failure to comply with the intimidation/harassment policy in the Internal Control Plan	2,500	5,000
225.35 Access to records and reports	2,500	5,000

1 A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to $27,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. A failure to comply with 225.23 constitutes a violation of 225.11. For purposes of 225.25 and 225.27 of this part, each of the following constitutes a single act of noncompliance: (1) a missing or incomplete log entry for a particular employee's injury or illness; or (2) a missing or incomplete log record for a particular rail equipment accident or incident. Each day a violation continues is a separate offense.

[53 FR 52931, Dec. 29, 1988, as amended at 55 FR 37828, Sept. 13, 1990; 61 FR 30940, June 18, 1996; 63 FR 11618, March 10, 1998; 69 FR 30591, May 28, 2004]

225 App B

Appendix B to Part 225-Procedure for Determining Reporting Threshold

1. Data from the U.S. Department of Labor, Bureau of Labor Statistics (BLS), LABSTAT Series Reports are used in the calculation. The equation used to adjust the reporting threshold uses the average hourly earnings reported for Class I railroads and Amtrak and an overall railroad equipment cost index determined by the BLS. The two factors are weighted equally.

2. For the wage component, LABSTAT Series Report, Standard Industrial Classification (SIC) code 4011 for Class I Railroad Average Hourly Earnings is used.
3. For the equipment component, LABSTAT Series Report, Producer Price Index (PPI) Series WPU 144 for Railroad Equipment is used.
4. In the month of October, final data covering the 12-month period ending with the month of June are obtained from BLS. The 12 monthly figures are totaled and divided by 12 to produce monthly averages to be used in computing the projected annual (12-month) average for the next calendar year.
5. The wage data are reported in terms of dollars earned per hour, while the equipment cost data are indexed to a base year of 1982.
6. The procedure for adjusting the reporting threshold is shown in the formula below. The wage component appears as a fractional change relative to the prior year, while the equipment component is a difference of two percentages which must be divided by 100 to present it in a consistent fractional form. After performing the calculation, the result is rounded to the nearest $100.
7. The current weightings represent the general assumption that damage repair costs, at levels at or near the threshold, are split approximately evenly between labor and materials.
8. Formula:

Where:

Prior Threshold = $6,600 (for rail equipment accidents/incidents that occur during calendar year 2001);
Wn = New average hourly wage rate ($) = 18.188333;
Wp = Prior average hourly wage rate ($) = 17.763333;
En = New equipment average PPI value ($) =135.733333;
Ep = Prior equipment average PPI value ($) = 135.633333.
9. The result of these calculations is $6,682.254777. Since the result is rounded to the nearest $100, the reporting threshold for rail equipment accidents/incidents that occur during calendar year 2002 is $6,700.
10. In the absence of data necessary to compute the reporting threshold for calendar year 2003 according to the procedure described in paragraphs 1-9 of this appendix B, the calendar year 2002 threshold of $6,700 remains in effect for calendar year 2003 and, until further notice, for all subsequent years.
[61 FR 60632, November 29, 1996; 62 FR 63675, December 02, 1997; 63 FR 71790, December 30, 1998; 64 FR 69193, December 10, 1999; 65 FR 69884, November 21, 2000; 66 FR 66346, December 26, 2001; 67 FR 79533, December 30, 2002]