

### § 840.3

### 49 CFR Ch. VIII (10-1-02 Edition)

#### § 840.3 Notification of railroad accidents.

The operator of a railroad shall notify the Board by telephoning the National Response Center at telephone 800-424-0201 at the earliest practicable time after the occurrence of any one of the following railroad accidents:

(a) No later than 2 hours after an accident which results in:

(1) A passenger or employee fatality or serious injury to two or more crewmembers or passengers requiring admission to a hospital;

(2) The evacuation of a passenger train;

(3) Damage to a tank car or container resulting in release of hazardous materials or involving evacuation of the general public; or

(4) A fatality at a grade crossing.

(b) No later than 4 hours after an accident which does not involve any of the circumstances enumerated in paragraph (a) of this section but which results in:

(1) Damage (based on a preliminary gross estimate) of \$150,000 or more for repairs, or the current replacement cost, to railroad and nonrailroad property; or

(2) Damage of \$25,000 or more to a passenger train and railroad and non-railroad property.

(c) Accidents involving joint operations must be reported by the railroad that controls the track and directs the movement of trains where the accident has occurred.

(d) Where an accident for which notification is required by paragraph (a) or (b) of this section occurs in a remote area, the time limits set forth in that paragraph shall commence from the time the first railroad employee who was not at the accident site at the time of its occurrence has received notice thereof.

[53 FR 49152, Dec. 6, 1988]

#### § 840.4 Information to be given in notification.

The notice required by § 840.3 shall include the following information:

(a) Name and title of person reporting.

(b) Name of railroad.

(c) Location of accident (relate to nearest city).

(d) Time and date of accident.

(e) Description of accident.

(f) Casualties:

(1) Fatalities.

(2) Injuries.

(g) Property damage (estimate).

(h) Name and telephone number of person from whom additional information may be obtained.

[41 FR 13925, Apr. 1, 1976]

#### § 840.5 Inspection, examination and testing of physical evidence.

(a) Any employee of the Safety Board, upon presenting appropriate credentials is authorized to enter any property wherein a transportation accident has occurred or wreckage from any such accident is located and do all things necessary for proper investigation, including examination or testing of any vehicle, rolling stock, track, or any part of any part of any such item when such examination or testing is determined to be required for purposes of such investigation.

(b) Any examination or testing shall be conducted in such a manner so as not to interfere with or obstruct unnecessarily the transportation services provided by the owner or operator of such vehicle, rolling stock, or track, and shall be conducted in such a manner so as to preserve, to the maximum extent feasible, any evidence relating to the transportation accident, consistent with the needs of the investigation and with the cooperation of such owner or operator. The employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities relevant to the investigation of such accident. Each inspection shall be commenced and completed promptly and the results of such inspection, examination, or test made available to the parties.

[47 FR 49408, Nov. 1, 1982]

#### § 840.6 Priority of Board investigations.

Any investigation of an accident conducted by the Safety Board shall have priority over all other investigations of such accident conducted by other Federal agencies. The Safety Board shall provide for the appropriate participation by other Federal agencies in any

## National Transportation Safety Board

## § 845.10

such investigation, except that such agencies may not participate in the Safety Board's determination of the probable cause of the accident. Nothing in this section impairs the authority of other Federal agencies to conduct investigations of an accident under applicable provisions of law or to obtain information directly from parties involved in, and witnesses to, the transportation accident. The Safety Board and other Federal agencies shall assure that appropriate information obtained or developed in the course of their investigations is exchanged in a timely manner.

[47 FR 49408, Nov. 1, 1982]

### PART 845—RULES OF PRACTICE IN TRANSPORTATION; ACCIDENT/INCIDENT HEARINGS AND REPORTS

Sec.

- 845.1 Applicability.
- 845.2 Nature of hearing.
- 845.3 Sessions open to the public.

#### Subpart A—Initial Procedure

- 845.10 Determination to hold hearing.
- 845.11 Board of inquiry.
- 845.12 Notice of hearing.
- 845.13 Designation of parties.

#### Subpart B—Conduct of Hearing

- 845.20 Powers of chairman of board of inquiry.
- 845.21 Hearing officer.
- 845.22 Technical panel.
- 845.23 Prehearing conference.
- 845.24 Right of representation.
- 845.25 Examination of witnesses.
- 845.26 Evidence.
- 845.27 Proposed findings.
- 845.28 Stenographic transcript.
- 845.29 Payment of witnesses.

#### Subpart C—Board Reports

- 845.40 Accident report.
- 845.41 Petitions for reconsideration or modification.

#### Subpart D—Public Record

- 845.50 Public docket.
- 845.51 Investigation to remain open.

AUTHORITY: Title VII, Federal Aviation Act of 1958, as amended (49 U.S.C. 1441 *et seq.*); and the Independent Safety Board Act of

1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 *et seq.*).

SOURCE: 44 FR 34419, June 14, 1979, unless otherwise noted.

#### § 845.1 Applicability.

Unless otherwise specifically ordered by the National Transportation Safety Board (Board), the provisions of this part shall govern all transportation accident investigation hearings conducted under the authority of section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(b)) and accident reports issued by the Board.

#### § 845.2 Nature of hearing.

Transportation accident hearings are convened to assist the Board in determining cause or probable cause of an accident, in reporting the facts, conditions, and circumstances of the accident, and in ascertaining measures which will tend to prevent accidents and promote transportation safety. Such hearings are factfinding proceedings with no formal issues and no adverse parties and are not subject to the provisions of the Administrative Procedure Act (Pub. L. 89-554, 80 Stat. 384 (5 U.S.C. 554)).

[44 FR 34419, June 14, 1979; 44 FR 39181, July 5, 1979]

#### § 845.3 Sessions open to the public.

(a) All hearings shall normally be open to the public (subject to the provision that any person present shall not be allowed at any time to interfere with the proper and orderly functioning of the board of inquiry).

(b) Sessions shall not be open to the public when evidence of a classified nature or which affects national security is to be received.

#### Subpart A—Initial Procedure

#### § 845.10 Determination to hold hearing.

The Board may order a public hearing as part of an accident investigation whenever such hearing is deemed necessary in the public interest: *Provided*, that if a quorum of the Board is not immediately available in the event of a