

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 30972, June 18, 1996, as amended at 61 FR 59371, Nov. 22, 1996; 68 FR 10139, Mar. 3, 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:

- (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 30972, 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.

[68 FR 10139, Mar. 3, 2003]