

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.

(b) [Reserved]

[61 FR 30972, June 18, 1996, as amended at 61 FR 59371, Nov. 22, 1996; 61 FR 67491, Dec. 23, 1996; 68 FR 10139, Mar. 3, 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 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

**§ 225.39**

**49 CFR Ch. II (10–1–06 Edition)**

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 sub-

mission 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]

APPENDIX A TO PART 225—SCHEDULE OF CIVIL PENALTIES <sup>1</sup>

Section (including computer code, if applicable)	Violation	Willful violation
225.9 Telephonic reports of certain accidents/incidents .....	\$1,000	\$2,000

<sup>1</sup>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.