

§ 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 PENALTIES¹

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

¹A 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.

Section (including computer code, if applicable)	Violation	Willful violation
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

[61 FR 30973, June 18, 1996, as amended at 63 FR 11622, Mar. 10, 1998; 69 FR 30594, May 28, 2004]

APPENDIX B TO PART 225—PROCEDURE FOR DETERMINING REPORTING THRESHOLD

1. Wage data used in the calculation are collected from railroads by the Surface Transportation Board (STB) on Form A—STB Wage Statistics. Rail equipment 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 has two components: (a) The average hourly earnings of certain railroad maintenance employees as reported to the STB by the Class I railroads and Amtrak; and (b) an overall rail equipment cost index determined by the BLS. The wage component is weighted by 40% and the equipment component by 60%.

2. For the wage component, the average of the data from Form A—STB Wage Statistics for Group No. 300 (Maintenance of Way and Structures) and Group No. 400 (Maintenance of Equipment and Stores) employees 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, second-quarter wage data are obtained from the STB. For equipment costs, the corresponding BLS railroad equipment indices for the second quarter are obtained. As the equipment index is

reported monthly rather than quarterly, the average for the months of April, May and June is used for the threshold calculation.

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 weightings result from using STB wage data and BLS equipment cost data to produce a reasonable estimation of the reporting threshold that was calculated using the threshold formula in effect immediately before calendar year 2006, a formula that assumed damage repair costs, at levels at or near the threshold, were split approximately evenly between labor and materials.

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times [1 + 0.4(\text{Wnew} - \text{Wprior})/\text{Wprior} + 0.6(\text{Enew} - \text{Eprior})/100]$$

Where:

- Wnew = New average hourly wage rate (\$).
- Wprior = Prior average hourly wage rate (\$).
- Enew = New equipment average PPI value.

Eprior = Prior equipment average PPI value.
[70 FR 75417, Dec. 20, 2005]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

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APPENDIX A TO PART 228—REQUIREMENTS OF THE HOURS OF SERVICE ACT: STATEMENT OF AGENCY POLICY AND INTERPRETATION

APPENDIX B TO PART 228—SCHEDULE OF CIVIL PENALTIES

APPENDIX C TO PART 228—GUIDELINES FOR CLEAN, SAFE, AND SANITARY RAILROAD PROVIDED CAMP CARS

AUTHORITY: 49 U.S.C. 20103, 20107, 21101–21108; 28 U.S.C. 2461, note and 49 CFR 1.49.

SOURCE: 37 FR 12234, June 21, 1972, unless otherwise noted.

Subpart A—General

§ 228.1 Scope.

This part—

- (a) Prescribes reporting and record keeping requirements with respect to the hours of service of certain railroad employees; and
- (b) Establishes standards and procedures concerning the construction or reconstruction of employee sleeping quarters.

[43 FR 31012, July 19, 1978]

§ 228.3 Application.

(a) Except as provided in paragraph (b), this part applies to all railroads.

(b) This part does not apply to:

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation; or

(2) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

[54 FR 33229, Aug. 14, 1989]

§ 228.5 Definitions.

As used in this part:

(a) *Administrator* means the Administrator of the Federal Railroad Administrator or any person to whom he delegated authority in the matter concerned.

(b) *Carrier, common carrier, and common carrier engaged in interstate or foreign commerce by railroad* mean *railroad* as that term is defined below.

(c) *Employee* means an individual employed by the common carrier who (1) is actually engaged in or connected with the movement of any train, including a person who performs the duties of a hostler, (2) dispatches, reports, transmits, receives, or delivers orders pertaining to train movements by the use of telegraph, telephone, radio, or any other electrical or mechanical device, or (3) is engaged in installing, repairing or maintaining signal systems.

(d) *Railroad* means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, and (2) 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.

[54 FR 33229, Aug. 14, 1989]