

**§ 233.9**

**49 CFR Ch. II (10–1–06 Edition)**

**§ 233.9 Reports.**

Not later than April 1, 1997 and every 5 years thereafter, each carrier shall file with FRA a signal system status report “Signal System Five-year Report” on a form to be provided by FRA in accordance with instructions and definitions provided on the report.

[61 FR 33872, July 1, 1996]

**§ 233.11 Civil 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.

[63 FR 11623, Mar. 10, 1998, as amended at 69 FR 30595, May 28, 2004]

**§ 233.13 Criminal penalty.**

Whoever knowingly and willfully—

(a) Makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part; or

(b) Files a false report or other document required to be filed by this part is subject to a \$5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522(a) and section 209(e) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438(e)).

APPENDIX A TO PART 233—SCHEDULE OF CIVIL PENALTIES<sup>1</sup>

Section	Violation	Willful violation
233.5 Accidents resulting from signal failure .....	\$2,500	\$5,000
233.7 Signal failure reports .....	5,000	7,500
233.9 Annual reports .....	1,000	2,000

[53 FR 52936, Dec. 29, 1988, as amended at 63 FR 11623, Mar. 10, 1998; 69 FR 30595, May 28, 2004]

**PART 234—GRADE CROSSING SIGNAL SYSTEM SAFETY**

**Subpart A—General**

- Sec.
- 234.1 Scope.
- 234.3 Application.
- 234.4 Preemptive effect.
- 234.5 Definitions.
- 234.6 Penalties.

**Subpart B—Reports**

- 234.7 Accidents involving grade crossing signal failure.
- 234.9 Grade crossing signal system failure reports.

**Subpart C—Response to Reports of Warning System Malfunction**

- 234.101 Employee notification rules.
- 234.103 Timely response to report of malfunction.
- 234.105 Activation failure.
- 234.106 Partial activation.
- 234.107 False activation.

<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.