

§ 225.27

calendar year for reporting accidents/incidents to make the update.

(5) Although the Alternative Record for Illnesses Claimed to be Work-Related (or the alternate railroad-designed form) may not include all supporting documentation, such as medical records, the alternative record shall note the custodian of those documents and where the supporting documents are located so that they are readily accessible to FRA upon request.

[61 FR 30970, June 18, 1996, as amended at 61 FR 59371, Nov. 22, 1996; 61 FR 67491, Dec. 23, 1996; 68 FR 10139, Mar. 3, 2003]

§ 225.27 Retention of records.

(a) Each railroad shall retain the Railroad Employee Injury and/or Illness Record and the Monthly List of Injuries and Illnesses required by § 225.25 for at least five years after the end of the calendar year to which they relate. Each railroad shall retain the Initial Rail Equipment Accident/Incident Record required by § 225.25 for at least two years after the end of the calendar year to which it relates. Each railroad must retain the Employee Human Factor Attachments required by § 225.12, the written notices to employees required by § 225.12, and the Employee Statements Supplementing Railroad Accident Reports described in § 225.12(g) that have been received by the railroad for at least 2 years after the end of the calendar year to which they relate.

(b) Each railroad must retain a duplicate of each form it submits to FRA under § 225.21, for at least 2 years after the calendar year to which it relates.

[39 FR 43224, Dec. 11, 1974, as amended at 55 FR 37828, Sept. 13, 1990; 61 FR 30971, June 18, 1996; 61 FR 67491, Dec. 23, 1996]

§ 225.29 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 inde-

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pendent 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. A person may also be subject to the criminal penalties provided for in 49 U.S.C. 21311.

[53 FR 28601, July 28, 1988, as amended at 53 FR 52931, Dec. 29, 1988; 61 FR 30971, June 18, 1996; 63 FR 11622, Mar. 10, 1998; 69 FR 30594, May 28, 2004]

EFFECTIVE DATE NOTE: At 72 FR 51197, Sept. 6, 2007, § 225.29 was amended by removing the numerical amount “\$11,000” and adding in its place the numerical amount “\$16,000”, effective October 9, 2007.

§ 225.31 Investigations.

(a) It is the policy of the FRA to investigate rail transportation accidents/incidents which result in the death of a railroad employee or the injury of five or more persons. Other accidents/incidents are investigated when it appears that an investigation would substantially serve to promote railroad safety.

(b) FRA representatives are authorized to investigate accidents/incidents and have been issued credentials authorizing them to inspect railroad records and properties. They are authorized to obtain all relevant information concerning accidents/incidents under investigation, to make inquiries of persons having knowledge of the facts, conduct interviews and inquiries, and attend as an observer, hearings conducted by railroads. When necessary to carry out an investigation, the FRA may authorize the issuance of subpoenas to require the production of records and the giving of testimony.

(c) Whenever necessary, the FRA will schedule a public hearing before an authorized hearing officer, in which event testimony will be taken under oath, a

record made, and opportunity provided to question witnesses.

(d) When necessary in the conduct of an investigation, the Federal Railroad Administrator may require autopsies and other tests of the remains of railroad employees who die as a result of an accident/incident.

(e) Information obtained through FRA accident investigations may be published in public reports or used for other purposes FRA deems to be appropriate.

(f) Section 20903 of title 49 of the United States Code provides that no part of a report of an accident investigation under section 20902 of title 49 of the United States Code may be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in the accident investigation report.

[39 FR 43224, Dec. 11, 1974, as amended at 61 FR 30971, June 18, 1996]

§ 225.33 Internal Control Plans.

(a) Each railroad shall adopt and comply with a written Internal Control Plan that shall be maintained at the office where the railroad's reporting officer conducts his or her official business. Each railroad shall amend its Internal Control Plan, as necessary, to reflect any significant changes to the railroad's internal reporting procedures. The Internal Control Plan shall be designed to maintain absolute accuracy and shall include, at a minimum, each of the following components:

(1) A policy statement declaring the railroad's commitment to complete and accurate reporting of all accidents, incidents, injuries, and occupational illnesses arising from the operation of the railroad, to full compliance with the letter and spirit of FRA's accident reporting regulations, and to the principle, in absolute terms, that harassment or intimidation of any person that is calculated to discourage or prevent such person from receiving proper medical treatment or from reporting such accident, incident, injury or illness will not be permitted or tolerated and will result in some stated disciplinary action against any employee, supervisor, manager, or officer of the railroad committing such harassment or intimidation.

(2) The dissemination of the policy statement; complaint procedures. Each railroad shall provide to all employees, supervisory personnel, and management the policy statement described in paragraph (a)(1). Each railroad shall have procedures to process complaints from any person about the policy stated in paragraph (a)(1) being violated, and to impose the appropriate prescribed disciplinary actions on each employee, supervisor, manager, or officer of the railroad found to have violated the policy. These procedures shall be disclosed to railroad employees, supervisors, managers, and officers. The railroad shall provide "whistle blower" protection to any person subject to this policy, and such policy shall be disclosed to all railroad employees, supervisors and management.

(3) Copies of internal forms and/or a description of the internal computer reporting system used for the collection and internal recording of accident and incident information.

(4) A description of the internal procedures used by the railroad for the processing of forms and/or computerized data regarding accident and incident information.

(5) A description of the internal review procedures applicable to accident and incident information collected, and reports prepared by, the railroad's safety, claims, medical and/or other departments engaged in collecting and reporting accident and incident information.

(6) A description of the internal procedures used for collecting cost data and compiling costs with respect to accident and incident information.

(7) A description of applicable internal procedures for ensuring adequate communication between the railroad department responsible for submitting accident and incident reports to FRA and any other department within the railroad responsible for collecting, receiving, processing and reporting accidents and incidents.

(8) A statement of applicable procedures providing for the updating of accident and incident information prior to reporting to FRA and a statement of applicable procedures providing for the amendment of accident and incident information as specified in the "FRA