

**Section 610 Periodic Review
of
Railroad Accidents/Incidents:
Reports Classification and Investigations
(49 CFR Part 225)**

[March 2, 2016]

The purpose of this document is to provide information and further details on the determination of the economic impact on small entities of 49 CFR Part 225, Railroad Accidents/Incidents: Reports Classification and Investigations. This document is also intended to fulfill the requirements of Section 610 of Title 5 Chapter 6, "The Analysis of Regulatory Functions."¹

Pursuant to the Accidents Reports Act, which was enacted in 1910, accident reporting regulations were originally issued by the Federal Railroad Administration (FRA) on July 15, 1974, which became effective January 1, 1975.² Under the added authority of the Federal Railroad Safety Act of 1970 (FRSA),³ the accident reporting regulations provide with a broader range of information concerning hazardous conditions on the Nation's railroads, thus allowing FRA to effectively carry out its statutory responsibilities. The rule also preempted states prescribing their own accident/incident reporting requirements.

The rule was revised on September 13, 1990 which became effective on December 1, 1990.⁴ The revised rule envisaged that in reporting a rail equipment accident/incident to FRA, if there was a human factor as the primary cause or a contributing cause of the accident, then in all such cases, the railroads are required to complete and submit FRA Form F6180.81, and identify the employee who committed the act or omission that caused this human factor accident.

On June 18, 1996, the rule was revised, which became effective on January 1, 1997,⁵ requiring railroads to adopt and maintain an Internal Control Plan (ICP), with penalties prescribed for failure to do so. FRA received petitions and requests to change the effective date of the final rule from the Association of American Railroads (AAR), The American Short Line Railroad Association (ASLRA), Union Pacific Railroad Company (UP), CSX Transportation, Inc., Canadian Pacific Railway, Burlington Northern Santa Fe Corporation (BNSF), Norfolk Southern Corporation, Consolidated Rail Corporation, Southern Pacific Lines, the Association of Railway Museums, Inc. (ARM), the Tourist Railroad Association (TRAIN), Maryland Midway Railway, Inc., Delaware Otesego Corporation, The Everett Railroad Company, Crab Orchard and Egyptian Railroad, Minnesota Commercial Railway Company, Angelina & Neches River Railroad

¹ 5 U.S.C. 610. The purpose of Section 610 is to periodically review rules.

² 39 FR 43222, December 11, 1974.

³ 49 U.S.C. Section 20101 et seq., 2000.

⁴ 55 FR 37818, September 13, 1990.

⁵ 61 FR 30940, June 18, 1996.

Company, and the City of Prineville Railway. ASLRA and most of its members, as well as ARM and TRAIN requested relief from implementing an ICP.⁶

FRA concluded that an ICP, while helpful to ensure that the lines of communications between the various railroad departments are maintained, was not essential in the case of extremely small railroads. Therefore, the applicability section of the final rule, section 225.3 was amended by adding section 225.3(b) to except from the ICP requirements outlined in section 225.33(a) (3) – (10) the following: (i) railroads that operate or own track on the general railroad system of transportation that have 15 or fewer employees covered by the hours of service laws (49 U.S.C. 21101-21107) and (ii) railroads that operate or own track exclusively off the general railroad system of transportation.⁷

The rule was amended on March 3, 2003, which became effective on May 1, 2003,⁸ to conform the accident/incident reporting requirements with the revised reporting regulations of the Occupational Safety and Health Administration (OSHA). The main purpose of this revision was to allow the comparability of data on occupational fatalities, injuries and illnesses in the railroad industry with other industries and the integration of these railroad industry data into national statistical databases, and to enhance the quality of information available for railroad industry analysis.

On November 9, 2010, FRA further revised the rule addressing accidents/incidents reporting in order to clarify ambiguous regulations and to enhance the quality of information available for railroad casualty analysis. In addition, FRA revised the FRA Guide for Preparing Accident/Incident Reports (FRA Guide), its accident/incident recording and reporting forms and its Compliance Guide: Guidelines for Submitting Accident/Incident Reports by Alternative Methods (Companion Guide).⁹

Following the publication of the rule, FRA received one formal petition for reconsideration from the Southeastern Pennsylvania Transportation Authority (SEPTA), and one informal request from UP to revise the FRA Guide by adding additional circumstance codes.¹⁰ The FRA responded as follows:¹¹

1. FRA made amendments to the definition of “event or exposure arising from the operation of a railroad” contained in section 225.5.
2. FRA denied SEPTA’s petition for reconsideration requesting the amendment with regard to limiting and consolidating the notification requirements to which a railroad is subject.

⁶ 61 FR 67477, December 23, 1996.

⁷ 61 FR 67478, December 23, 1996; 49 CFR Part 228, Appendix A.

⁸ 68 FR 10108, March 3, 1998.

⁹ 75 FR 68862, November 9, 2010.

¹⁰ 76 FR 30855, May 27, 2011.

¹¹ 76 FR 30856-30861, May 27, 2011.

3. FRA made several clarifying or technical amendments to the preamble discussions contained in the final rule.

4. FRA revised the instructions contained in the Companion Guide to eliminate any confusion, to avoid requiring railroads to retroactively apply the new rules and regulations, and to prevent any potential issues with the collection of accident/incident data.

5. FRA made general clarifying or technical amendments throughout the FRA Guide.

49 CFR Part 225 contains appendices A and B. Appendix A sets forth a schedule of civil penalties, while Appendix B prescribes FRA's procedure for determining the accident/incident reporting threshold.

FRA has received petitions and comments from the Association of American Railroads (AAR), The American Short Line Railroad Association (ASLRA), Union Pacific Railroad Company (UP), CSX Transportation, Inc., Canadian Pacific Railway, Burlington Northern Santa Fe Corporation (BNSF), Norfolk Southern Corporation, Consolidated Rail Corporation, Southern Pacific Lines, the Association of Railway Museums, Inc. (ARM), the Tourist Railroad Association (TRAIN), Maryland Midway Railway, Inc., Delaware Otsego Corporation, The Everett Railroad Company, Crab Orchard and Egyptian Railroad, Minnesota Commercial Railway Company, Angelina & Neches River Railroad Company, the City of Prineville Railway, and the Southeastern Pennsylvania Transportation Authority (SEPTA) on this rule.

The main objective of the rule is to provide the FRA with accurate information regarding the hazards and risks that exist on the nation's railroads. FRA needs this information to effectively carry out its statutory responsibilities, and uses this information to determine comparative trends of railroad safety, and to develop hazard elimination and risk reduction programs that focus on preventing railroad accidents/incidents. These Federal regulations preempt States from prescribing accident/incident reporting requirements. However, any State may require railroads to submit to it copies of accident/incident and injury/illness reports filed with FRA under this rule, for accidents/incidents and injuries/illnesses which occur in that State.

FRA has determined that 49 CFR Part 225 "Railroad Accidents/Incidents: Reports Classification and Investigations" has no "significant economic impact on a substantial number of small entities" (SEIOSNOSE). Section 225.3 specifically states that certain Internal Control Plan and recordkeeping requirements do not apply to railroads below a certain size. FRA also makes available a free software package to all railroads that would allow for FRA recordkeeping and reporting.

For *Federal Register*:

49 CFR Part 225 – Railroad Accidents/Incidents: Reports Classification and Investigations

- Section 610: There is no SEIOSNOSE. Section 225.3 specifically states that certain Internal Control Plan and recordkeeping requirements are not applicable to railroads below a certain size. FRA also makes available a free software package to all railroads that would allow for FRA recordkeeping and reporting.
- General: Since the FRA needs accurate information on the hazards and risks that exist on the nation's railroads to effectively carry out its regulatory responsibilities; to determine comparative trends of railroad safety, and to develop hazard elimination and risk reduction programs that focus on preventing railroad injuries and accidents, the requirements set forth in part 225 will improve railroad safety for industry employees and general public. FRA's plain language review of this rule indicates no need for substantial revision.