

and II, to the employee. The Employee Statement Supplementing Railroad Accident Report (Employee Supplement) is completely at the option of the employee; however, if the employee desires to make a statement about the accident that will become part of the railroad's Rail Equipment Accident/Incident Report, the employee shall complete the Employee Supplement form (part II of Form FRA F 6180.78) and shall then submit the original of the entire form, parts I and II, and any attachments, to FRA and submit a copy of the same to the railroad that issued the Notice in part I.

(h) *Form FRA F 6180.98—Railroad Employee Injury and/or Illness Record.* Form FRA F 6180.98 or an alternative railroad-designed record shall be used by the railroads to record all reportable and accountable injuries and illnesses to railroad employees for each establishment. This record shall be completed and maintained in accordance with the requirements set forth in § 225.25.

(i) *Form FRA F 6180.97—Initial Rail Equipment Accident/Incident Record.* Form FRA F 6180.97 or an alternative railroad-designed record shall be used by the railroads to record all reportable and accountable rail equipment accidents/incidents for each establishment. This record shall be completed and maintained in accordance with the requirements set forth in § 225.25.

[39 FR 43224, Dec. 11, 1974, as amended at 42 FR 1221, Jan. 6, 1977; 49 FR 48939, Dec. 17, 1984; 55 FR 37828, Sept. 13, 1990; 61 FR 30969, 30973, June 18, 1996]

#### § 225.23 Joint operations.

(a) Any reportable death or injury to an employee arising from an accident/incident involving joint operations must be reported on Form FRA F 6180.55a by the employing railroad.

(b) In all cases involving joint operations, each railroad must report on Form FRA F 6180.55a the casualties to all persons on its train or other on-track equipment. Casualties to railroad employees must be reported by the employing railroad regardless of whether the employees were on or off duty. Casualties to all other persons not on trains or on-track equipment must be reported on Form FRA F 6180.55a by

the railroad whose train or equipment is involved. Any person found unconscious or dead, if such condition arose from the operation of a railroad, on or adjacent to the premises or right-of-way of the railroad having track maintenance responsibility must be reported by that railroad on Form FRA F 6180.55a.

(c) In rail equipment accident/incident cases involving joint operations, the railroad responsible for carrying out repairs to, and maintenance of, the track on which the accident/incident occurred, and any other railroad directly involved in the accident/incident, each must report the accident/incident on Form FRA F 6180.54.

[39 FR 43224, Dec. 11, 1974, as amended at 42 FR 1221, Jan. 6, 1977]

#### § 225.25 Recordkeeping.

(a) Each railroad shall maintain either the Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) or an alternative railroad-designed record as described in paragraph (b) of this section of all reportable and accountable injuries and illnesses of its employees that arise from the operation of the railroad for each railroad establishment where such employees report to work, including, but not limited to, an operating division, general office, and major installation such as a locomotive or car repair or construction facility.

(b) The alternative railroad-designed record may be used in lieu of the Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) described in paragraph (a) of this section. Any such alternative record shall contain all of the information required on the Railroad Employee Injury and/or Illness Record. Although this information may be displayed in a different order from that on the Railroad Employee Injury and/or Illness Record, the order of the information shall be consistent from one such record to another such record. The order chosen by the railroad shall be consistent for each of the railroad's reporting establishments. Railroads may list additional information on the alternative record beyond the information required on the Railroad Employee Injury and/or Illness Record. The alternative record shall

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contain, at a minimum, the following information:

- (1) Name of railroad;
- (2) Case/incident number;
- (3) Full name of railroad employee;
- (4) Date of birth of railroad employee;
- (5) Gender of railroad employee;
- (6) Social security number of railroad employee;
- (7) Date the railroad employee was hired;
- (8) Home address of railroad employee; include the street address, city, State, ZIP code, and home telephone number with area code;
- (9) Name of facility where railroad employee normally reports to work;
- (10) Address of facility where railroad employee normally reports to work; include the street address, city, State, and ZIP code;
- (11) Job title of railroad employee;
- (12) Department assigned;
- (13) Specific site where accident/incident/exposure occurred; include the city, county, State, and ZIP code;
- (14) Date and time of occurrence; military time or AM/PM;
- (15) Time employee's shift began; military time or AM/PM;
- (16) Whether employee was on premises when injury occurred;
- (17) Whether employee was on or off duty;
- (18) Date and time when employee notified company personnel of condition; military time or AM/PM;
- (19) Name and title of railroad official notified;
- (20) Description of the general activity this employee was engaged in prior to the injury/illness/condition;
- (21) Description of all factors associated with the case that are pertinent to an understanding of how it occurred. Include a discussion of the sequence of events leading up to it; and the tools, machinery, processes, material, environmental conditions, etc., involved;
- (22) Description, in detail, of the injury/illness/condition that the employee sustained, including the body parts affected. If a recurrence, list the date of the last occurrence;
- (23) Identification of all persons and organizations used to evaluate or treat the condition, or both. Include the facility, provider and complete address;

(24) Description of all procedures, medications, therapy, etc., used or recommended for the treatment of the condition.

(25) Extent and outcome of injury or illness to show the following as applicable:

- (i) Fatality—enter date of death;
  - (ii) Restricted work; number of days; beginning date;
  - (iii) Occupational illness; date of initial diagnosis;
  - (iv) Instructions to obtain prescription medication, or receipt of prescription medication;
  - (v) If missed one or more days of work or next shift, provide number of work days; and beginning date;
  - (vi) Medical treatment beyond “first aid”;
  - (vii) Hospitalization for treatment as an inpatient;
  - (viii) Multiple treatments or therapy sessions;
  - (ix) Loss of consciousness;
  - (x) Transfer to another job or termination of employment;
- (26) Each railroad shall indicate if the Railroad Injury and Illness Summary (Continuation Sheet) (FRA Form F 6180.55a) has been filed with FRA for the injury or illness. If FRA Form F 6180.55a was not filed with FRA, then the railroad shall provide an explanation of the basis for its decision.

(27) The reporting railroad shall indicate if the injured or ill railroad employee was provided an opportunity to review his or her file; and

(28) The reporting railroad shall identify the preparer's name; title; telephone number with area code; and the date the log entry was completed.

(c) Each railroad shall provide the employee, upon request, a copy of either the completed Railroad Employee Injury and/or Illness Record (Form FRA F 6180.98) or the alternative railroad-designed record as described in paragraphs (a) and (b) of this section as well as a copy of forms or reports required to be maintained or filed under this part pertaining to that employee's own work-related injury or illness.

(d) Each railroad shall maintain the Initial Rail Equipment Accident/Incident Record (Form FRA F 6180.97) or an alternative railroad-designed record as

described in paragraph (e) of this section of reportable and accountable collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment, signals, track, or track equipment (standing or moving) that result in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and all other costs for repairs or replacement in kind for each railroad establishment where workers report to work, including, but not limited to, an operating division, general office, and major installation such as a locomotive or car repair or construction facility.

(e) The alternative railroad-designed record may be used in lieu of the Initial Rail Equipment Accident/Incident Record (Form FRA F 6180.97). Any such alternative record shall contain all of the information required on the Initial Rail Equipment Accident/Incident Record. Although this information may be displayed in a different order from that on the Initial Rail Equipment Accident/Incident Record, the order of the information shall be consistent from one such record to another such record. The order chosen by the railroad shall be consistent for each of the railroad's reporting establishments. Railroads may list additional information in the alternative record beyond the information required on the Initial Rail Equipment Accident/Incident Record. The alternative record shall contain, at a minimum, the following information:

- (1) Date and time of accident;
- (2) Reporting railroad, and accident/incident number;
- (3) Other railroad, if applicable, and other railroad's accident/incident number;
- (4) Railroad responsible for track maintenance, and that railroad's incident number;
- (5) Type of accident/incident (derailment, collision, etc.);
- (6) Number of cars carrying hazardous materials that derailed or were damaged; and number of cars carrying hazardous materials that released product;
- (7) Division;
- (8) Nearest city or town;

- (9) State;
  - (10) Milepost (to the nearest tenth);
  - (11) Specific site;
  - (12) Speed (indicate if actual or estimate);
  - (13) Train number or job number;
  - (14) Type of equipment (freight, passenger, yard switching, etc.);
  - (15) Type of track (main, yard, siding, industry);
  - (16) Total number of locomotives in train;
  - (17) Total number of locomotives that derailed;
  - (18) Total number of cars in train;
  - (19) Total number of cars that derailed;
  - (20) Total amount of damage in dollars to equipment based on computations as described in the "FRA Guide for Preparing Accidents/Incidents Reports";
  - (21) Total amount of damage in dollars to track, signal, way and structures based on computations as described in the "FRA Guide for Preparing Accidents/Incidents Reports";
  - (22) Primary cause;
  - (23) Contributing cause;
  - (24) Persons injured and persons killed, broken down into the following classifications: worker on duty—employee; employee not on duty; passenger on train; nontrespasser—on railroad property; trespasser; worker on duty—contractor; contractor—other; worker on duty—volunteer; volunteer—other; and nontrespasser—off railroad property;
  - (25) Narrative description of the accident;
  - (26) Whether the accident/incident was reported to FRA;
  - (27) Preparer's name, title, telephone number with area code, and signature; and
  - (28) Date the report was completed.
- (f) Each railroad shall enter each reportable and accountable injury and illness and each reportable and accountable rail equipment accident/incident on the appropriate record, as required by paragraphs (a) through (e) of this section, as early as practicable but no later than seven working days after receiving information or acquiring knowledge that an injury or illness or rail equipment accident/incident has occurred.

(g) The records required under paragraphs (a) through (e) of this section may be maintained at the local establishment or, alternatively, at a centralized location. If the records are maintained at a centralized location, but not through electronic means, then a paper copy of the records that is current within 35 days of the month to which it applies shall be available for that establishment. If the records are maintained at a centralized location through electronic means, then the records for that establishment shall be available for review in a hard copy format within four business hours of FRA's request. FRA recognizes that circumstances outside the railroad's control may preclude it from fulfilling the four-business-hour time limit. In these circumstances, FRA will not assess a monetary penalty against the railroad for its failure to provide the requested documentation provided the railroad made a reasonable effort to correct the problem.

(h) Except as provided in paragraph(h)(15) of this section, a listing of all injuries and occupational illnesses reported to FRA as having occurred at an establishment shall be posted in a conspicuous location at that establishment, within 30 days after the expiration of the month during which the injuries and illnesses occurred, if the establishment has been in continual operation for a minimum of 90 calendar days. If the establishment has not been in continual operation for a minimum of 90 calendar days, the listing of all injuries and occupational illnesses reported to FRA as having occurred at the establishment shall be posted, within 30 days after the expiration of the month during which the injuries and illnesses occurred, in a conspicuous location at the next higher organizational level establishment, such as one of the following: an operating division headquarters; a major classification yard or terminal headquarters; a major equipment maintenance or repair installation, *e.g.*, a locomotive or rail car repair or construction facility; a railroad signal and maintenance-of-way division headquarters; or a central location where track or signal maintenance employees are assigned as a headquarters or receive work assignments.

These examples include facilities that are generally major facilities of a permanent nature where the railroad generally posts or disseminates company informational notices and policies, *e.g.*, the policy statement in the internal control plan required by §225.33 concerning harassment and intimidation. At a minimum, "establishment" posting is required and shall include locations where a railroad reasonably expects its employees to report during a 12-month period and to have the opportunity to observe the posted list containing any reportable injuries or illnesses they have suffered during the applicable period. This listing shall be posted and shall remain continuously displayed for the next twelve consecutive months. Incidents reported for employees at that establishment shall be displayed in date sequence. The listing shall contain, at a minimum, the information specified in paragraphs (h)(1) through (14) of this section.

- (1) Name and address of the establishment;
- (2) Calendar year of the cases being displayed;
- (3) Incident number used to report case;
- (4) Date of the injury or illness;
- (5) Location of incident;
- (6) Regular job title of employee injured or ill;
- (7) Description of the injury or condition;
- (8) Number of days employee absent from work at time of posting;
- (9) Number of days of work restriction for employee at time of posting;
- (10) If fatality—enter date of death;
- (11) Annual average number of railroad employees reporting to this establishment;
- (12) Preparer's name, title, telephone number with area code, and signature (or, in lieu of signing each establishment's list of reportable injuries and illnesses, the railroad's preparer of this monthly list may sign a cover sheet or memorandum which contains a list of each railroad establishment for which a monthly list of reportable injuries and illnesses has been prepared. This cover memorandum shall be signed by the preparer and shall have attached to

it a duplicate copy of each establishment's list of monthly reportable injuries and illnesses. The preparer of the monthly lists of reportable injuries and illnesses shall mail or send by facsimile each establishment's list to the establishment in the time frame prescribed in paragraph (h) of this section.); and

(13) Date the record was completed.

(14) When there are no reportable injuries or occupational illnesses associated with an establishment for that month, the listing shall make reference to this fact.

(15) The railroad is permitted not to post information on an injury or illness only if the employee who incurred the injury or illness makes a request in writing to the railroad's reporting officer that his or her particular injury or illness not be posted.

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

#### § 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 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 \$500 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 \$22,000 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]

#### § 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.