

Federal Railroad Administration, DOT

§ 225.5

for accidents/incidents and injuries/illnesses which occur in that State.

[61 FR 30967, June 18, 1996]

§ 225.3 Applicability.

(a) Except as provided in paragraphs (b), (c), and (d), this part applies to all railroads except—

(1) A railroad that operates freight trains only on track inside an installation which is not part of the general railroad system of transportation or that owns no track except for track that is inside an installation that is not part of the general railroad system of transportation and used for freight operations.

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

(3) A railroad that exclusively hauls passengers inside an installation that is insular or that owns no track except for track used exclusively for the hauling of passengers inside an installation that is insular. An operation is not considered insular if one or more of the following exists on its line:

(i) A public highway-rail grade crossing that is in use;

(ii) An at-grade rail crossing that is in use;

(iii) A bridge over a public road or waters used for commercial navigation; or

(iv) A common corridor with a railroad, *i.e.*, its operations are within 30 feet of those of any railroad.

(b) The Internal Control Plan requirements in § 225.33(a)(3) through (10) do not apply to—

(1) 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 law (49 U.S.C. 21101–21107) and

(2) Railroads that operate or own track exclusively off the general system.

(c) The recordkeeping requirements regarding accountable injuries and illnesses and accountable rail equipment accidents/incidents found in § 225.25(a) through (g) do not apply to—

(1) 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 law (49 U.S.C. 21101–21107) and

(2) Railroads that operate or own track exclusively off the general system.

(d) All requirements in this part to record or report an injury or illness incurred by any classification of person that results from a non-train incident do not apply to railroads that operate or own track exclusively off the general railroad system of transportation, unless the non-train incident involves in-service on-track equipment.

[61 FR 30967, June 18, 1996, as amended at 61 FR 67490, Dec. 23, 1996]

§ 225.5 Definitions.

As used in this part—

Accident/incident means:

(1) Any impact between railroad on-track equipment and an automobile, bus, truck, motorcycle, bicycle, farm vehicle or pedestrian at a highway-rail grade crossing;

(2) Any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in reportable damages greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, and roadbed;

(3) Any event arising from the operation of a railroad which results in:

(i) Death to any person;

(ii) Injury to any person that requires medical treatment;

(iii) Injury to a railroad employee that results in:

(A) A day away from work;

(B) Restricted work activity or job transfer; or

(C) Loss of consciousness; or

(4) Occupational illness.

Accountable injury or illness means any condition, not otherwise reportable, of a railroad worker that is associated with an event, exposure, or activity in the work environment that causes or requires the worker to be examined or treated by a qualified health care professional. Such treatment would usually occur at a location other than the work environment; however, it may be provided at any location, including the work site.

Accountable rail equipment accident/incident means any event not otherwise

reportable, involving the operation of on-track equipment that causes physical damage to either the on-track equipment or the track upon which such equipment was operated and that requires the removal or repair of rail equipment from the track before any rail operations over the track can continue. An accountable rail equipment accident/incident, if not tended to, thus would disrupt railroad service. Examples of “disruption of service” would include: loss of main track; one or more derailed wheels; any train failing to arrive or depart at its scheduled time; one or more cars or locomotives taken out of service; or rerouting trains due to a damaged car or locomotive.

Arising from the operation of a railroad includes all activities of a railroad that are related to the performance of its rail transportation business.

Day away from work is any day subsequent to the day of the injury or diagnosis of occupational illness that a railroad employee does not report to work for reasons associated with his or her condition.

Day of restricted work activity is any day that a employee is restricted in his or her job following the day of the injury or diagnosis of occupational illness.

Employee human factor includes any of the accident causes signified by the train accident cause codes listed under “Train Operation—Human Factors” in the current “FRA Guide for Preparing Accidents/Incidents Reports,” except for those train accident cause codes pertaining to non-railroad workers. For purposes of this definition “employee” includes the classifications of Worker on Duty—Employee, Employee not on Duty, Worker on Duty—Contractor, and Worker on Duty—Volunteer.

Establishment means a single physical location where workers report to work, where railroad business is conducted, or where services or operations are performed. Examples are: a division office, general office, repair or maintenance facility, major switching yard or terminal. For employees who are engaged in dispersed operations, such as signal or track maintenance workers, an “establishment” is typically a location

where work assignments are initially made and oversight responsibility exists, *e.g.*, the establishment where the signal supervisor or roadmaster is located.

FRA representative means the Associate Administrator for Safety, FRA; the Associate Administrator’s delegate (including a qualified State inspector acting under part 212 of this chapter); the Chief Counsel, FRA; or the Chief Counsel’s delegate.

Highway-rail grade crossing means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks at grade.

Joint operations means rail operations conducted on a track used jointly or in common by two or more railroads subject to this part or operation of a train, locomotive, car, or other on-track equipment by one railroad over the track of another railroad.

Medical treatment includes any medical care or treatment beyond “first aid” regardless of who provides such treatment. Medical treatment does not include diagnostic procedures, such as X-rays and drawing blood samples. Medical treatment also does *not* include preventive emotional trauma counseling provided by the railroad’s employee counseling and assistance officer *unless* the participating worker has been diagnosed as having a mental disorder that was significantly caused or aggravated by an accident/incident and this condition requires a regimen of treatment to correct.

Non-train incident means an event that results in a reportable casualty, but does not involve the movement of on-track equipment nor cause reportable damage above the threshold established for train accidents.

Occupational illness means any abnormal condition or disorder, of any person who falls under the definition for the classifications of Worker on Duty—Employee, Worker on Duty—Contractor, or Worker on Duty—Volunteer, other than one resulting from injury, caused by environmental factors associated with the person’s railroad employment, including, but not limited to, acute or chronic illnesses or

diseases that may be caused by inhalation, absorption, ingestion, or direct contact.

Person includes all categories of entities covered under 1 U.S.C. 1, including, but not limited to, a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any passenger; any trespasser or nontrespasser; any independent contractor providing goods or services to a railroad; any volunteer providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor.

Qualified health care professional is a health care professional operating within the scope of his or her license, registration, or certification. For example, an otolaryngologist is qualified to diagnose a case of noise-induced hearing loss and identify potential causal factors, but may not be qualified to diagnose a case of repetitive motion injuries. In addition to licensed physicians, the term *qualified health care professional* includes members of other occupations associated with patient care and treatment such as chiropractors, podiatrists, physician's assistants, psychologists, and dentists.

Railroad means a person providing railroad transportation.

Railroad transportation means any form of non-highway ground transportation that run on rails or electro-magnetic guideways, including commuter or other short-haul railroad passenger service in a metropolitan or suburban area, as well as any commuter railroad service that was operated by the Consolidated Rail Corporation as of January 1, 1979, and 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.

Train accident means any collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment (standing or moving) that results in damages

greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, and roadbed.

Train incident means any event involving the movement of on-track equipment that results in a reportable casualty but does not cause reportable damage above the current threshold established for train accidents.

Work environment is the physical location, equipment, materials processed or used, and activities of a railroad employee associated with his or her work, whether on or off the railroad's property.

Work related means related to any incident, activity, exposure, or the like occurring within the work environment.

[61 FR 30968, June 18, 1996, as amended at 61 FR 59371, Nov. 22, 1996; 61 FR 67490, Dec. 23, 1996]

§ 225.7 Public examination and use of reports.

(a) Accident/Incident reports made by railroads in compliance with these rules shall be available to the public in the manner prescribed by part 7 of this title. Accident/Incident reports may be inspected at the Office of Safety, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590. Written requests for a copy of a report should be addressed to the Freedom of Information Officer, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590, and be accompanied by the appropriate fee prescribed in part 7 of this title. To facilitate expedited handling, each request should be clearly marked "Request for Accident/Incident Report."

(b) 49 U.S.C. 20903 provides that monthly reports filed by railroads under § 225.11 may not be admitted as evidence or used for any purpose in any action for damages growing out of any matters mentioned in these monthly reports. The Employee Human Factor Attachment, Notice, and Employee Supplement under § 225.12 are part of the reporting railroad's accident report to FRA pursuant to the 49 U.S.C. 20901 and, as such, shall not "be admitted as evidence or used for any purpose in any suit or action for damages growing out