

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

§ 225.9

of any matter mentioned in said report * * *.” 49 U.S.C. 20903.

[39 FR 43224, Dec. 11, 1974, as amended at 51 FR 47019, Dec. 30, 1986; 53 FR 28601, July 28, 1988; 55 FR 37827, Sept. 13, 1990; 55 FR 52487, Dec. 21, 1990; 61 FR 30969, June 18, 1996]

§ 225.9 Telephonic reports of certain accidents/incidents.^{1, 2}

(a) Each railroad must report immediately by toll free telephone, Area Code 800-424-0201, whenever it learns of the occurrence of an accident/incident arising from the operation of the railroad that results in the:

(1) Death of rail passenger or employee; or

(2) Death or injury of five or more persons.

(b) Each report must state the:

(1) Name of the railroad;

(2) Name, title, and telephone number of the individual making the report;

(3) Time, date, and location of accident/incident;

(4) Circumstances of the accident/incident; and

(5) Number of persons killed or injured.

[39 FR 43224, Dec. 11, 1974, as amended at 41 FR 15847, Apr. 15, 1976; 49 FR 48939, Dec. 17, 1984]

§ 225.11 Reporting of accidents/incidents.

Each railroad subject to this part shall submit to FRA a monthly report of all railroad accidents/incidents described in § 225.19. The report shall be made on the forms prescribed in § 225.21 in hard copy or, alternatively, by means of magnetic media or electronic submission, as prescribed in § 225.37, and shall be submitted within 30 days after expiration of the month during which the accidents/incidents occurred. Reports shall be completed as required by the current “FRA Guide for Pre-

¹ The National Transportation Safety Board requires certain railroad accidents to be reported by telephone at the same toll free number (See Title 49, Code of Federal Regulations Part 840).

² FRA Locomotive Safety Standards require certain locomotive accidents to be reported by telephone at the same toll free number (See Title 49, Code of Federal Regulations, § 229.17.)

49 CFR Ch. II (10-1-02 Edition)

paring Accidents/Incidents Reports.” A copy of this guide may be obtained from the Office of Safety, RRS-22, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

[61 FR 30969, June 18, 1996]

§ 225.12 Rail Equipment Accident/Incident Reports alleging employee human factor as cause; Employee Human Factor Attachment; notice to employee; employee supplement.

(a) *Rail Equipment Accident/Incident Report alleging employee human factor as cause; completion of Employee Human Factor Attachment.* If, in reporting a rail equipment accident/incident to FRA, a railroad cites an employee human factor as the primary cause or a contributing cause of the accident; then the railroad that cited such employee human factor must complete, in accordance with instructions on the form and in the current “FRA Guide for Preparing Accident/Incident Reports,” an Employee Human Factor Attachment form on the accident. For purposes of this section, “employee” is defined as a Worker on Duty—Employee, Employee not on Duty, Worker on Duty—Contractor, or Worker on Duty—Volunteer.

(b) *Notice to identified implicated employees.* Except as provided in paragraphs (e) and (f) of this section, for each employee whose act, omission, or physical condition was alleged by the railroad as the employee human factor that was the primary cause or a contributing cause of a rail equipment accident/incident and whose name was listed in the Employee Human Factor Attachment for the accident and for each such railroad employee of whose identity the railroad has actual knowledge, the alleging railroad shall—

(1) Complete part I, “Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor,” of Form FRA F 6180.78 with information regarding the accident, in accordance with instructions on the form and in the current “FRA Guide for Preparing Accident/Incident Reports”; and

(2) Hand deliver or send by first class mail (postage prepaid) to that employee, within 45 days after the end of