

Section (including computer code, if applicable)	Violation	Willful violation
225.23 Joint operations	(⁽¹⁾)	(⁽¹⁾)
225.25 Recordkeeping	2,500	5,000
225.27 Retention of records	1,000	2,000
225.33:		
(1) Failure to adopt the Internal Control Plan	2,500	5,000
(2) Inaccurate reporting due to failure to comply with the Internal Control Plan	2,500	5,000
(3) Failure to comply with the intimidation/harassment policy in the Internal Control Plan	2,500	5,000
225.35 Access to records and reports	2,500	5,000

¹ A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$100,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. A failure to comply with § 225.23 constitutes a violation of § 225.11. For purposes of §§ 225.25 and 225.27 of this part, each of the following constitutes a single act of noncompliance: (1) a missing or incomplete log entry for a particular employee's injury or illness; or (2) a missing or incomplete log record for a particular rail equipment accident or incident. Each day a violation continues is a separate offense.

[61 FR 30973, June 18, 1996, as amended at 63 FR 11622, Mar. 10, 1998; 69 FR 30594, May 28, 2004; 73 FR 79702, Dec. 30, 2008]

APPENDIX B TO PART 225—PROCEDURE FOR DETERMINING REPORTING THRESHOLD

1. Wage data used in the calculation are collected from railroads by the Surface Transportation Board (STB) on Form A—STB Wage Statistics. Rail equipment data from the U.S. Department of Labor, Bureau of Labor Statistics (BLS), LABSTAT Series reports are used in the calculation. The equation used to adjust the reporting threshold has two components: (a) The average hourly earnings of certain railroad maintenance employees as reported to the STB by the Class I railroads and Amtrak; and (b) an overall rail equipment cost index determined by the BLS. The wage component is weighted by 40% and the equipment component by 60%.

2. For the wage component, the average of the data from Form A—STB Wage Statistics for Group No. 300 (Maintenance of Way and Structures) and Group No. 400 (Maintenance of Equipment and Stores) employees is used.

3. For the equipment component, LABSTAT Series Report, Producer Price Index (PPI) Series WPU 144 for Railroad Equipment is used.

4. In the month of October, second-quarter wage data are obtained from the STB. For equipment costs, the corresponding BLS railroad equipment indices for the second quarter are obtained. As the equipment index is reported monthly rather than quarterly, the average for the months of April, May and June is used for the threshold calculation.

5. The wage data are reported in terms of dollars earned per hour, while the equipment cost data are indexed to a base year of 1982.

6. The procedure for adjusting the reporting threshold is shown in the formula below. The wage component appears as a fractional change relative to the prior year, while the equipment component is a difference of two percentages which must be divided by 100 to

present it in a consistent fractional form. After performing the calculation, the result is rounded to the nearest \$100.

7. The weightings result from using STB wage data and BLS equipment cost data to produce a reasonable estimation of the reporting threshold that was calculated using the threshold formula in effect immediately before calendar year 2006, a formula that assumed damage repair costs, at levels at or near the threshold, were split approximately evenly between labor and materials.

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times [1 + 0.4(\text{Wnew} - \text{Wprior})/\text{Wprior} + 0.6(\text{Enew} - \text{Eprior})/100]$$

Where:

Wnew = New average hourly wage rate (\$).
Wprior = Prior average hourly wage rate (\$).
Enew = New equipment average PPI value.
Eprior = Prior equipment average PPI value.

[70 FR 75417, Dec. 20, 2005]

PART 227—OCCUPATIONAL NOISE EXPOSURE

Subpart A—General

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