

## § 225.7

the subsidiaries making up the railroad system requires immediate notification to FRA and execution of an amended agreement. Executed agreements will be published in the docket.

[75 FR 68905, Nov. 9, 2010]

### § 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 U.S. Department of Transportation, Federal Railroad Administration, Office of Safety, West Building 3rd Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Written requests for a copy of a report should be addressed to the Freedom of Information Act Coordinator, Office of Chief Counsel, Federal Railroad Administration, U.S. Department of Transportation, RCC-10, Mail Stop 10, West Building 3rd Floor, Room W33-437, 1200 New Jersey Avenue, SE., 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 "FOIA Request for Accident/Incident Report." For additional information on submitting a FOIA request to FRA see FRA's Web site at <http://www.fra.dot.gov/us/foia>.

(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 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; 75 FR 68905, Nov. 9, 2010]

## 49 CFR Ch. II (10-1-11 Edition)

### § 225.9 Telephonic reports of certain accidents/incidents and other events.

(a) *Types of accidents/incidents and other events to be reported*—(1) *Certain deaths or injuries.* Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of an accident/incident arising from the operation of the railroad, or an event or exposure that may have arisen from the operation of the railroad, that results in the—

(i) Death of a rail passenger or a railroad employee;

(ii) Death of an employee of a contractor to a railroad performing work for the railroad on property owned, leased, or maintained by the contracting railroad; or

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

(2) *Certain train accidents or train incidents.* Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any of the following events that arose from the operation of the railroad:

(i) A train accident that results in serious injury to two or more train crewmembers or passengers requiring their admission to a hospital;

(ii) A train accident resulting in evacuation of a passenger train;

(iii) A fatality resulting from a train accident or train incident at a highway-rail grade crossing when death occurs within 24 hours of the accident/incident;

(iv) A train accident resulting in damage (based on a preliminary gross estimate) of \$150,000 or more to railroad and nonrailroad property; or

(v) A train accident resulting in damage of \$25,000 or more to a passenger train, including railroad and nonrailroad property.

(3) *Train accidents on or fouling passenger service main lines.* The dispatching railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any train accident reportable as a rail equipment accident/incident under §§ 225.11 and 225.19(c)—

(i) That involves a collision or derailment on a main line that is used for scheduled passenger service; or

(ii) That fouls a main line used for scheduled passenger service.

(b) *Method of reporting.* (1) Telephonic reports required by this section shall be made by toll-free telephone to the National Response Center, Area Code 800-424-8802 or 800-424-0201.

(2) Through one of the same telephone numbers (800-424-0201), the National Response Center (NRC) also receives notifications of rail accidents for the National Transportation Safety Board (49 CFR part 840) and the Research and Special Programs Administration of the U.S. Department of Transportation (Hazardous Materials Regulations, 49 CFR 171.15). FRA Locomotive Safety Standards require certain locomotive accidents to be reported by telephone to the NRC at the same toll-free number (800-424-0201). 49 CFR 229.17.

(c) *Contents of report.* 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 the accident/incident;

(4) Circumstances of the accident/incident;

(5) Number of persons killed or injured; and

(6) Available estimates of railroad and non-railroad property damage.

(d) *Timing of report.* (1) To the extent that the necessity to report an accident/incident depends upon a determination of fact or an estimate of property damage, a report will be considered immediate if made as soon as possible following the time that the determination or estimate is made, or could reasonably have been made, whichever comes first, taking into consideration the health and safety of those affected by the accident/incident, including actions to protect the environment.

(2) NTSB has other specific requirements regarding the timeliness of reporting. See 49 CFR part 840.

[68 FR 10138, Mar. 3, 2003, as amended at 75 FR 68905, Nov. 9, 2010]

### § 225.11 Reporting of accidents/incidents.

(a) Each railroad subject to this part shall submit to FRA a monthly report of all railroad accidents/incidents described below:

(1) Highway-rail grade crossing accidents/incidents described in § 225.19;

(2) Rail equipment accidents/incidents described in § 225.19; and

(3) Death, injury and occupational illness accidents/incidents described in § 225.19.

(b) The report shall be made on the forms prescribed in § 225.21 in hard copy or, alternatively, by means of optical media or electronic submission via the Internet, 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. A copy of the FRA Guide may be obtained from the U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS-22, Mail Stop 25 West Building 3rd Floor, Room W33-107, 1200 New Jersey Avenue, SE., Washington, DC 20590 or downloaded from FRA's Office of Safety Analysis Web site at <http://safetydata.fra.dot.gov/officeofsafety/>, and click on "Click Here for Changes in Railroad Accident/Incident Recordkeeping and Reporting."

[75 FR 68905, Nov. 9, 2010]

### § 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