

### **INTRODUCTION**

A railroad is required by Federal Railroad Administration (FRA) regulations at Title 49, Part 225 of the Code of Federal Regulations to use the current FRA Guide for Preparing Accident/Incident Reports (“Guide” or “reporting guide”) when preparing its monthly report. The instructions and interpretations contained in this publication are provided to assist railroads in meeting this obligation.

The Occupational Safety and Health Act of 1970 requires all employers, including railroads, to “maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses.” At the time of its issuance, railroads were subject to the Accident Reports Act of 1910, which states that: “It shall be the duty of every common carrier engaged in interstate or foreign commerce by railroad to make to the Secretary of Transportation a monthly report, under oath, of all collisions, derailments, or other accidents resulting in death or injury to any person or damage to equipment or roadbed, arising from the operation of such railroad. These reports shall state the nature and causes thereof and the circumstances connected therewith.”

Because of this earlier and continuing requirement, an agreement was reached between the Department of Labor (DOL) and the Department of Transportation (DOT) that railroads should continue to report to DOT, but under modified recordkeeping rules. These new rules would conform to the extent practicable to those issued by the Occupational Safety and Health Administration (OSHA) and would be administered by the Federal Railroad Administration (FRA) under 49 CFR Part 225. These new rules went into effect on January 1, 1975.

The Occupational Safety and Health Act of 1970 also requires that the Secretary of Labor must issue rules to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. These data are used to chart the magnitude and nature of the occupational injury and illness problem across the country. Congress, OSHA, and safety and health policy makers in Federal, State and local governments use these statistics to make decisions concerning safety and health legislation, programs, and standards. Employers and employees use them to compare their own injury and illness experiences with the performance of other establishments within their industry and in other industries.

The injury and illness records required by FRA’s accident/incident reporting rule contribute to the national database on workplace safety, maintained by DOL. In order to have a database that allows accurate comparison between industries, the rules that FRA uses must be modified whenever OSHA makes significant changes that affect the number and types of work related deaths, injuries, and illnesses for which records are to be maintained, and the manner in which these are to be classified. Such a change occurred on January 1, 2002, when revised OSHA recordkeeping requirements became effective, and is the first revision since the original requirements were implemented in 1971. In response to this change, FRA began the process of amending its own rule to conform with OSHA’s new rules.

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In recent years FRA has adopted a more participatory approach to rulemaking by using what is known as Railroad Safety Advisory Committee (RSAC). RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from 27 organizations representing various railroad industry interests, two associate representatives from the agencies with railroad safety regulatory responsibility in Canada, and Mexico, and other associate representatives from organizations representing industry personnel with diverse backgrounds.

On April 23, 2001, FRA tasked RSAC with developing recommendations on Accident/Incident Reporting Conformity. The purpose of the task was to:

*[C]onform FRA's regulations for accident/incident reporting (49 CFR part 225) to revised regulations of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, and to make appropriate revisions to the FRA Guide for Preparing Accident/Incident Reports (Reporting Guide).*

RSAC accepted this task and assigned it to the already formed Accident/Incident Reporting Working Group comprised of 26 entities in addition to FRA. RSAC tasked this Working Group to report on “(1) Recommended changes to the regulations and Reporting Guide to achieve conformity with revised OSHA regulations and guidance, including consideration of codes, narratives and forms.” RSAC also tasked the Working Group to report on “(2) Any appropriate perfecting changes to the regulations or Reporting Guide responsive to issues identified by FRA in its administration of the current accident incident recordkeeping and reporting program.”

Because of the need to conform with OSHA's new rule it was necessary to completely revise Chapter 6, where the casualty recordkeeping requirements are found. The majority of criteria previously used to determine which cases to report carry forward to the new rule, e.g., medical treatment, day away from work; some with minor modification. Each major reporting issue is addressed in separate sections, e.g., how to determine work-relatedness, how to determine if a condition is a new case. Each of these sections contains a series of questions and answers pertinent to that issue, and will aid the reporting officer in making reporting decisions.

The majority of cases reportable under the previous requirements will continue to be reportable under the new rules. Although FRA's previous rules and guidelines closely paralleled OSHA's prior requirements, there were some areas where FRA's guidelines differed from those of OSHA. Because of the need to conform as closely as possible to OSHA's requirements, FRA has corrected these differences in the rule and the Guide.

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Now certain cases which were not reportable under FRA's old rule, will now be reportable, e.g., use of over the counter medication at prescription strength. The addition of these new cases will make comparison of data collected under the new requirements inconsistent with data collected under the previous guidelines, and may give the impression that safety has declined. These cases are being collected because they are covered by OSHA's requirements. They will be identified on the report form as "covered data" cases. Although "covered data" cases will be retained in our files, and be accessible on our web site, these cases will not be included in the casualty counts found in our regular publications, e.g., Annual Report of Railroad Safety Statistics, but may be used for other purposes.

The following is a summary of significant changes to the rule and Chapter 6 pertaining to the reporting of employee on duty cases:

- Clarified the meaning of event or exposure arising from the operation of a railroad
- Clarified how work-relationship is determined, i.e., is the injury or illness work-related?
- Additional exceptions have been added to the geographic presumption of work relationship; cases arising from eating and drinking of food and beverages, blood donations, exercise programs, etc. no longer need to be recorded. Common cold and flu cases also no longer need to be recorded.
- Criteria for deciding when mental illnesses are considered work-related have been added.
- Different criteria for recording work-related injuries and work-related illnesses are eliminated; one set of criteria is used for both.
- Clarified when a condition is to be treated as a new case versus updating an existing case.
- New definitions are included for medical treatment and first aid. First aid is defined by treatments on a finite list. All treatment not on this list is medical treatment.
- Medical treatment now includes all non-prescription drugs at prescription strength and at any dose for a prescription drug.
- First aid (not reportable) now includes hot or cold therapy, regardless of how often applied.
- Medical treatment now includes any physical therapy/chiropractic treatment.
- First aid (not reportable) now includes use of butterfly bandages and Steri-Strips™ for any purpose.
- Medical treatment now includes any use of oxygen.
- Second degree burns are now not automatically recordable.
- The recording of "light duty" or restricted work cases is clarified. Employers are now required to record cases as restricted work cases when the injured or ill employee only works partial days or is restricted from performing their "routine job functions" (defined as work activities the employee regularly performs at least once weekly).
- Cases are reportable based on the recommendation of a physician or other health care professional that days away from work or days of restriction are needed.

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- The count of days away from work are based on total calendar days, rather than days the employee would have actually worked.
- Employers are required to record all needlestick and sharps injuries involving contamination by another person's blood or other potentially infectious material.
- Musculoskeletal disorders (MSDs) are treated like all other injuries or illnesses: they must be recorded if they result in days away, restricted work, transfer to another job, or medical treatment beyond first aid.
- Special recording criteria are included for cases involving the work-related transmission of tuberculosis or medical removal under OSHA standards. (§1904.9 and §1904.11)

The second task of the Accident/Incident Reporting Working Group was to make any appropriate perfecting changes to the regulations or Reporting Guide responsive to issues identified by FRA in its administration of the current accident incident recordkeeping and reporting program.

Among the more significant of these are the following:

- Revised Part 225 pertaining to telephonic reporting of certain accidents/incidents;
- Revised Appendix C, pertaining to train accident cause codes, including the addition, deletion or modification of codes;
- Revised Appendix E, pertaining to injury and illness codes, including the addition or modification of codes;
- Revised Appendix F, pertaining to circumstance codes, including the addition, deletion or modification of codes;
- Extended the period that FRA will keep its databases open to accept late or corrected reports from the April 15 calendar closeout through December 1;
- Revised appropriate section of Part 225 so as to clarify the provisions which pertain to reporting death or an injury to any person or railroad employee;
- Added additional codes pertaining to the use of remotely controlled locomotive(s) for use on forms FRA F 6180.55a, 6180.54, and 6180.57; and added new item on Form FRA F 6180.54.
- Revised Forms FRA F 6180.81 (Employee Human Factor Attachment) and 6180.78 (Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor and Employee Statement Supplementing Railroad Accident Report) to improve how the forms read and simplify the instructions for the forms;
- Added Chapter 13 for instances where there is a claimed occupational illness, but the work relationship is under dispute or the illness has been determined not to be work related;
- Added Chapter 12, pertaining to commuter railroads;

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- Revised instructions in the *Guide* to clarify that the “function” of the employee would be used to determine the employee’s job title, when the railroad uses a job title other than engineer, fireman, conductor or brakeman;
- Revised Forms FRA F 6180.54 and 6180.55a to add a block to permit railroads to voluntarily report latitude and longitude of railroad equipment accidents and injuries.

A more complete discussion of the various changes can be found in the preamble of the rule. Assistance in complying with these guidelines can be obtained from the offices located in Appendix G.

The instructions in the Guide are limited to issues associated with recordkeeping and reporting. Railroads may transmit their monthly reports to the FRA by alternative means, e.g., on magnetic media or as an electronic data file that can be submitted as an e-mail attachment. The technical information needed for doing this is not described in the Guide, since it is not necessary for reporting decisions. A separate manual is available upon request that contains the specifications for doing this and is titled *Guidelines for Submitting Accident/Incident Reports by Alternative Methods*.

To assist railroads in maintaining and submitting records and reports required by this rule, the FRA developed the software package Accident/Incident Report Generator (AIRG) for the personal computer (PC) that runs in a Windows-based environment. See 61 Fed. Reg. 59485 (Nov. 22, 1996). The FRA will provide you with a copy of this software free of charge upon request by the reporting officer.