

testing at night or on weekends), thus making the timing of random alcohol testing too predictable. FRA has alerted railroads to the need to conduct random alcohol tests at all times to achieve deterrence and more accurately capture the prevalence of alcohol abuse throughout the duty period.

Because of these systemic program deficiencies, FRA will not lower the minimum random alcohol testing rate further at this time. Instead, FRA will continue to audit industry testing programs and assist railroads in achieving compliance and producing credible prevalence data. When FRA has confidence that rail industry data is derived from programs fully in compliance with random testing requirements, FRA will reevaluate whether to lower the minimum random alcohol testing rate to 10 percent.

Issued in Washington, D.C. on December 22, 1998.

**Donald M. Itzkoff,**

*Deputy Federal Railroad Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Parts 219 and 225

[FRA-98-4898, Notice No. 1]

[RIN 2130-AB30]

#### Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes at \$6,600 the monetary threshold for reporting railroad accidents/incidents involving railroad property damage that occur during calendar year 1999. There is no change from the reporting threshold for calendar year 1998. This action is needed to ensure and maintain comparability between different years of data by having the threshold keep pace with any increases or decreases in equipment and labor costs so that each year accidents involving the same minimum amount of railroad property damage are included in the reportable accident counts. The reporting threshold was last reviewed and changed in 1997.

**EFFECTIVE DATE:** January 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Finkelstein, Staff Director,

Office of Safety Analysis, RRS-22, Mail Stop 25, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-493-6280); or Nancy L. Friedman, Trial Attorney, Office of Chief Counsel, RCC-12, Mail Stop 10, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202-493-6034).

#### SUPPLEMENTARY INFORMATION:

##### Background

Rail equipment accidents/incidents are collisions, derailments, explosions, fires, acts of God, and other events (including grade crossing accidents) involving the operation of standing or moving on-track equipment that result in damages higher than the current reporting threshold to railroad on-track equipment, signals, track, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. 49 CFR 225.19(b), (c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). *Id.*

As revised in 1997, paragraphs (c) and (e) of 49 CFR 225.19, provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225, to reflect any cost increases or decreases. 61 FR 30942, 30969 (June 18, 1996); 61 FR 60632, 60634 (Nov. 29, 1996); 61 FR 67477, 67490 (Dec. 23, 1996).

##### New Reporting Threshold

One year has passed since the accident/incident reporting threshold was last reviewed and revised. 62 FR 63675 (Dec. 2, 1997). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and decreased costs for material. FRA has determined that the current reporting threshold of \$6,600, which applies to rail equipment accidents/incidents that occur during calendar year 1998, should remain the same for calendar year 1999, effective January 1, 1999.

Accordingly, §§ 225.5 and 225.19, and Appendix B have been amended to state the reporting threshold for calendar year 1999 and the most recent cost figures and the calculations made to determine that threshold. Finally, the alcohol and drug regulations (49 CFR part 219) are also amended to reflect that the reporting threshold for calendar year 1999 is \$6,600.

#### Notice and Comment Procedures

In this rule, FRA merely recalculates the monetary reporting threshold based on the formula adopted, after notice and comment, in the final rule published June 18, 1996, 61 FR 30959, 30969, and discussed in detail in the final rule published November 29, 1996, 61 FR 30632. FRA further finds that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA further finds that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, FRA concludes that notice and comment procedures are impracticable, unnecessary, and contrary to the public interest. As a consequence, FRA is proceeding directly to this final rule.

#### Regulatory Impact

##### Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing regulatory policies and procedures and is considered to be a nonsignificant regulatory action under DOT policies and procedures (44 FR 11034; February 26, 1979). This final rule also has been reviewed under Executive Order 12866 and is also considered "nonsignificant" under that Order.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule will have no new significant direct or indirect economic impact on small units of government, business, or other organizations. To the extent that this rule has any impact on small units, the impact will be neutral because the rule is maintaining, rather increasing, their reporting burden.

#### Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

#### Environmental Impact

This final rule will not have any identifiable environmental impact.

#### Federalism Implications

This final rule will not have a substantial effect on the States, on the

relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

#### The Final Rule

In consideration of the foregoing, FRA amends Parts 219 and 225, Title 49, Code of Federal Regulations as follows:

#### PART 219—[AMENDED]

1. The authority citation for part 219 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20111, 20112, 20113, 20140, 21301, 21304; and 49 CFR 1.49(m).

2. By amending § 219.5 by revising the first sentence in the definition of Impact accident and by revising the definitions of Reporting Threshold and Train accident to read as follows:

#### § 219.5 Definitions.

*Impact accident* means a train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 1999) consisting of a head-on collision, a rear-end collision, a side collision (including a collision at a railroad crossing at grade), a switching collision, or impact with a deliberately-placed obstruction such as a bumping post.

*Reporting threshold* means the amount specified in § 225.19(e) of this chapter, as adjusted from time to time in accordance with appendix B to part

225 of this chapter. The reporting threshold for calendar years 1991 through 1996 is \$6,300. The reporting threshold for calendar year 1997 is \$6,500. The reporting threshold for calendar years 1998 through 1999 is \$6,600.

*Train accident* means a passenger, freight, or work train accident described in § 225.19(c) of this chapter (a "rail equipment accident" involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 1999), including an accident involving a switching movement.

3. By amending § 219.201 by revising the introductory text of paragraphs (a)(1) and (a)(2), and by revising paragraph (a)(4) to read as follows:

#### § 219.201 Events for which testing is required.

(a) *Major train accident.* Any train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 1999) that involves one or more of the following:

(2) *Impact accident.* An impact accident (*i.e.*, a rail equipment accident defined as an "impact accident" in § 219.5 of this part that involves damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar

year 1997, and \$6,600 for calendar years 1998 through 1999) resulting in—

#### (4) Passenger train accident.

Reportable injury to any person in a train accident (*i.e.*, a rail equipment accident involving damage in excess of the current reporting threshold, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 1999) involving a passenger train.

#### PART 225—[AMENDED]

1. The authority citation for part 225 continues to read as follows:

**Authority:** 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49(c), (g), and (m).

2. By amending § 225.19(c) by removing the phrase "and \$6,600 for calendar year 1998)" and by adding in its place ", and \$6,600 for calendar years 1998 through 1999)".

3. By revising § 225.19(e) to read as follows:

#### § 225.19 Primary groups of accidents/incidents.

(e) The reporting threshold is \$6,300 for calendar years 1991 through 1996. The reporting threshold is \$6,500 for calendar year 1997 and \$6,600 for calendar years 1998 through 1999. The procedure for determining the reporting threshold for calendar year 1997 and later appears as appendix B to part 225.

4. Part 225 is amended by revising paragraphs 8 and 9 of appendix B to read as follows:

#### Appendix B to Part 225—Procedure for Determining Reporting Threshold

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times \left\{ 1 + 0.5 \frac{(W_n - W_p)}{W_p} + 0.5 \frac{(E_n - E_p)}{100} \right\}$$

Where:

Prior Threshold = \$6,600 (for rail equipment accidents/incidents that occur during calendar year 1998)

W<sub>n</sub>=New average hourly wage rate (\$)=18.085000

W<sub>p</sub>=Prior average hourly wage rate (\$)=17.990833

E<sub>n</sub>=New equipment average PPI value (\$)=134.49166

E<sub>p</sub>=Prior equipment average PPI value (\$)=135.91666

9. The result of these calculations is \$6,570.2472. Since the result is rounded to the nearest \$100, the new reporting threshold for rail equipment accidents/incidents that occur during calendar year 1999 remains at \$6,600.

Issued in Washington, D.C., on December 21, 1998.

**Donald M. Itzkoff,**

*Deputy Administrator, Federal Railroad Administration.*

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#### DEPARTMENT OF TRANSPORTATION

#### Federal Highway Administration

#### 49 CFR Part 395

#### Global Positioning System (GPS) Technology; Extension of Application Date

**AGENCY:** Federal Highway

Administration (FHWA), DOT.

**ACTION:** Notice of extension of deadline for submission of applications to participate in the GPS technology pilot demonstration project.

**SUMMARY:** The FHWA is extending the deadline for motor carriers to submit applications to participate in the agency's Global Positioning System (GPS) technology pilot demonstration project. This project allows qualified motor carriers that use GPS technology and related safety management computer systems to enter into an agreement with the FHWA to use such systems to record and monitor drivers' hours of service, in lieu of requiring them to prepare handwritten records of duty status. This project is intended to demonstrate that the motor carrier industry can use this technology to improve compliance with the hours-of-service requirements in a manner which promotes safety and operational efficiency while reducing paperwork.