



ASSOCIATION OF AMERICAN RAILROADS
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Via electronic mail

Mr. Robert Brogan
Information Collection Clearance Officer
Office of Railroad Safety
Regulatory Analysis Division, RRS 21
Federal Railroad Administration
1200 New Jersey Ave. SE
Mail Stop 25
Washington, DC 20590

**Re: Docket No. FRA-2016-0002-N-24; OMB Control Number: 2130-0500,
Accident/Incident Reporting and Recordkeeping**

Dear Mr. Brogan,

The Association of American Railroads (“AAR”), on behalf of itself and its member railroads, submits the following comment in response to the Federal Railroad Administration’s (“FRA”) Notice and Request for Comments on railroad accident reporting regulations in 49 C.F.R. Part 225. These rules require railroads to submit monthly reports summarizing collisions, derailments, and certain other accidents/incidents involving damages above a periodically revised dollar threshold, as well as certain injuries to passengers, employees, and other persons on railroad property.¹ We believe FRA should take this opportunity to (1) update the reporting threshold, so that the information collected will have practical utility; and (2) improve the quality, utility, and clarity of the information collected.

Part 225 requires railroads to submit monthly reports summarizing collisions, derailments, and certain other accidents/incidents involving damages above a periodically-revised dollar threshold. The dollar threshold is revised to account for changes in the costs to repair damages to track and equipment. FRA last updated the dollar threshold from \$9,900 to \$10,500 on December 24, 2013, noting that “FRA intends to reexamine and amend its method

¹ 81 Fed. Reg. 74,496 (Oct. 26, 2016).

for calculating its reporting threshold because, since 2006, new data sources and methodologies for calculating the threshold have become available and updating the formula to include these advances will ensure it appropriately reflects changes in costs, wages, and inflation.”² However, no action has been taken with respect to updating the threshold in the nearly three years that have passed since December 2013.

Inaction in this area has an effect that compounds over time. Failure to update the threshold reduces the utility of the accident count and other statistics derived from the accident data reported by railroads. This data is used by many in the industry to compare accident rates across time and evaluate the state of railroad safety, as well as to develop and monitor the impact of initiatives to improve safety. As FRA noted in its December 23, 2008 final rule to adjust the threshold that year, “absent this rulemaking (i.e., any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2008 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs.”³ In other words, failure to update the threshold to take account of inflation results in an artificial increase in accident rates. To ensure that the information it collects with respect to reportable accidents has practical utility, FRA should update the reporting threshold accordingly annually.

Regular updating of the threshold is also critical in light of FRA’s System Safety Program final rule, which requires participating passenger railroads to receive notification of accidents/incidents, investigate and report those accidents/incidents, develop, implement, and track any corrective actions found necessary to address an investigation’s finding(s), and collect, maintain, analyze, and distribute safety data in support of the system safety program.⁴ Similarly, FRA’s proposed Risk Reduction Program rule requires freight railroads to make use of accident/incident data, and so the comparability of that data over time is essential.⁵

In addition, FRA should improve the transparency of the analyses it conducts using the accident/incident data it collects. Given technology available today, the agency should easily be able to make public the spreadsheets that it uses to calculate cost and benefits estimates for proposed and final rules in interactive format (with the underlying formulas in a cells accessible format) in lieu of a hard coded PDF format. This will greatly facilitate public review and comment, and increase the utility of the data collected under 49 C.F.R. Part 225 at little or no cost to the agency.



Sarah Yurasko

² 78 Fed. Reg. 77,601 (Dec. 24, 2013).

³ 73 Fed. Reg. 78,657 (Dec. 23, 2008).

⁴ See 49 C.F.R. § 270.103(n) and (m); published in 81 Fed. Reg. 53,850 (Aug. 12, 2016).

⁵ See 80 Fed. Reg. 10,950 (Feb. 27, 2015) at 10,989, proposing to include in the definition of accident/incident any “collision, derailment, fire, explosion, act of God, or other event involving operation of railroad on-track equipment that results in reportable damage greater than the current reporting threshold identified in 49 C.F.R. part 225.”