

Dated: September 29, 2000.

**Myron Knudson,**

*Acting Regional Administrator, U.S. EPA Region 6.*

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

**Appendix B—[Amended]**

2. Table 1 of Appendix B to part 300 is amended by removing the site "Tenth Street Dump/Junkyard, Oklahoma City, Oklahoma."

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**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**49 CFR Parts 219 and 225**

[FRA-98-4898, Notice No. 3]

RIN 2130-AB30

**Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents—Calendar Year 2001**

**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 2001. There is no change from the reporting threshold for calendar year 2000. 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 in 1999.

**EFFECTIVE DATE:** January 1, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Robert L. Finkelstein, Staff Director, Office of Safety Analysis, RRS-22, Mail Stop 17, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Ave., N.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, 1120 Vermont Ave., N.W., Washington, D.C. 20590 (telephone 202-493-6034).

**SUPPLEMENTARY INFORMATION:**

**Background**

Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c). 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**

Approximately one year has passed since the rail equipment accident/incident reporting threshold was last reviewed, and approximately three years since it was revised. 64 FR 69193 (Dec. 10, 1999); 63 FR 71790 (Dec. 30, 1998); 62 FR 63675 (Dec. 2, 1997). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on decreased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of \$6,600, which applies to rail equipment accidents/incidents that occur during calendar year 2000, should remain the same for rail equipment accidents/incidents that occur during calendar year 2001, effective January 1, 2001.

Accordingly, §§ 225.5 and 225.19 and appendix B have been amended to state the reporting threshold for calendar year 2001 and the most recent cost figures and the calculations made to determine that threshold. Finally, the alcohol and drug regulations (49 CFR part 219) have also been amended to reflect that the reporting threshold for calendar year 2001 is \$6,600.

**Notice and Comment Procedures**

In this rule, FRA has recalculated 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 has found 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 has found 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 has concluded 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 (Feb. 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. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), FRA has published an interim policy that formally establishes "small entities" as being railroads that meet the line-haulage revenue requirements of a Class III railroad. 62 FR 43024 (Aug. 11, 1997). For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. About 645 of the approximately 700 railroads in the United States are considered small businesses by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral because the rule is maintaining, rather than increasing, their reporting burden. The American Shortline and Regional Railroad Association (ASLRRA) represents the interests of most small freight railroads and some excursion railroads operating in the United States. FRA field offices and the ASLRRA engage in various outreach activities with small railroads. For instance, when new regulations are issued that affect small railroads, FRA briefs the ASLRRA, which in turn disseminates the information to its members and

provides training as appropriate. When a new railroad is formed, FRA safety representatives visit the operation and provide information regarding applicable safety regulations. The FRA regularly addresses questions and concerns regarding regulations raised by railroads. Because this rule is not anticipated to affect small railroads, FRA is not providing alternative treatment for small railroads under this rule.

#### *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.

#### *Federalism Implications*

Executive Order 13132, entitled, "Federalism," issued on August 4, 1999, requires that each agency "in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met \* \* \*." This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

#### *Environmental Impact*

FRA has evaluated this regulation in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment)

because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. Section 4(c)(20) reads as follows:

(c) Actions Categorically Excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. \* \* \* The following classes of FRA actions are categorically excluded:

\* \* \*

(20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

#### *Unfunded Mandates Reform Act of 1995*

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 2 U.S.C. 1531), each federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. The final rule would not result in the expenditure, in the aggregate, of \$100,000,000 or more in any one year, and thus preparation of such a statement is not required.

#### **List of Subjects**

##### *49 CFR Part 219*

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety,

Reporting and recordkeeping requirements, Safety, Transportation.

##### *49 CFR Part 225*

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

#### **The Final Rule**

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

#### **PART 219—CONTROL OF ALCOHOL AND DRUG USE**

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

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

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 2001) 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 2001 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, \$6,600 for calendar years 1998 through 2001), 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) \* \* \*

(1) *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, \$6,600 for calendar years 1998 through 2001) 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 2001) 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 2001) involving a passenger train.

\* \* \* \* \*

**PART 225—RAILROAD ACCIDENTS/ INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS [AMENDED]**

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

**Authority:** 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49.

2. By amending § 225.19 by revising the first sentence of paragraph (c) and paragraph (e) to read as follows:

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

\* \* \* \* \*

(c) Rail equipment accidents/ incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-

track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.*, \$6,300 for calendar years 1991 through 1996, \$6,500 for calendar year 1997, and \$6,600 for calendar years 1998 through 2001) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. \* \* \*

\* \* \* \* \*

(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 2001. 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 2000)

W<sub>n</sub> = New average hourly wage rate (\$) = 17.763333

W<sub>p</sub> = Prior average hourly wage rate (\$) = 17.888333

E<sub>n</sub> = New equipment average PPI value (\$) = 135.63333

E<sub>p</sub> = Prior equipment average PPI value (\$) = 134.89166

9. The result of these calculations is \$6,601.4157. Since the result is rounded to the nearest \$100, the new reporting threshold for rail equipment accidents/incidents that occur during calendar year 2001 is \$6,600, which is the same as for calendar years 1998 through 2000.

Issued in Washington, DC, on November 9, 2000.

**Jolene M. Molitoris,**  
*Administrator, Federal Railroad Administration.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 000119014-0137-02; I.D. 080700C]

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 2000 Summer Flounder, Scup and Black Sea Bass Commercial Quotas**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Commercial quota adjustment for 2000; correction.

**SUMMARY:** NMFS corrects the 2000 commercial summer flounder quota allocated to the State of Maryland. This action complies with the regulations that implement the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which specify that summer flounder landings in excess of a given state's

individual commercial quota be deducted from that state's quota for the following year. The intent of this action is to correct for the deduction of an overage from the Maryland allocation that was made in error.

**DATES:** Effective November 20, 2000, through December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Fisheries Policy Analyst, (978) 281-9273, fax 978-281-9135, e-mail [paul.h.jones@noaa.gov](mailto:paul.h.jones@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 18, 2000 (65 FR 50463), NMFS announced preliminary adjustments to the 2000 summer flounder commercial quotas based on updated 1999 landings data. However, after the publication of that adjustment, NMFS discovered that some summer flounder landings reported by the State of Maryland in 1999 were double-counted, meaning that the final 1999 landings did not exceed that state's quota.

Therefore, this document corrects the entries for Maryland specified in Table 1, Summer Flounder Preliminary 1999 Landings and Overages by State; and