Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges (“Cramming”); Consumer Information and Disclosure; Truth-in-Billing Format

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In this document, the Federal Communications Commission (FCC) is correcting a final rule that appeared in the Federal Register of May 24, 2012. This document corrects rules adopted to help consumers prevent and detect the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice commonly referred to as “cramming.”

DATES: This correction contains modified information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a separate document in the Federal Register announcing the effective date of this correction.

FOR FURTHER INFORMATION CONTACT: Melissa Conway, Melissa.Conway@fcc.gov or (202) 418–2887, of the Consumer and Governmental Affairs Bureau.

SUPPLEMENTARY INFORMATION: This document makes the following correction to the final rule published May 24, 2012, at 77 FR 30915:

§ 64.2401 [Corrected].

1. On page 30919, in the third column, in § 64.2401, revise paragraph (f) to read as follows:

(f) Blocking of third-party charges. (1) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option at the point of sale and on each carrier’s Web site.

(2) Carriers that offer subscribers the option to block third-party charges from appearing on telephone bills must clearly and conspicuously notify subscribers of this option on each telephone bill.

Federal Communications Commission.

Bulah P. Wheeler,
Associate Secretary, Office of the Secretary,
Office of Managing Director.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2008–0136, Notice No. 5]

RIN 2130–ZA10

Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2013

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

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident reporting threshold from $9,500 to $9,900 for certain railroad accidents/incidents involving property damage that occur during calendar year 2013. This action is needed to ensure that FRA’s reporting requirements reflect cost increases that have occurred since the reporting threshold was last published in November of 2011.

DATES: This regulation is effective January 1, 2013.


SUPPLEMENTARY INFORMATION:

Background

A “rail equipment accident/incident” is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). 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) and (c). As revised, effective 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.

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was revised. 76 FR 72850 (November 28, 2011). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $9,500, which applies to rail equipment accidents/incidents that occur during calendar year 2012, should increase by $400 to $9,900 for equipment accidents/incidents occurring during calendar year 2013, effective January 1, 2013. The specific inputs to the equation set forth in appendix B (i.e., $N_{new} = T_{prior} \times [1 + 0.4(W_{new} – W_{prior})/W_{prior} + 0.6(E_{new} – E_{prior})/100]) to part 225 are:

<table>
<thead>
<tr>
<th>$T_{prior}$</th>
<th>$W_{new}$</th>
<th>$W_{prior}$</th>
<th>$E_{new}$</th>
<th>$E_{prior}$</th>
</tr>
</thead>
<tbody>
<tr>
<td>$9,500$</td>
<td>$25.56943$</td>
<td>$24.92646$</td>
<td>$191.50000$</td>
<td>$186.36667$</td>
</tr>
</tbody>
</table>

Where: $N_{new}$ = New threshold; $T_{prior}$ = Prior threshold (with reference to the threshold, “prior” refers to the previous threshold rounded to the nearest $100, as reported in the Federal Register); $W_{new}$ = New average hourly wage rate, in dollars; $W_{prior}$ = Prior average hourly wage rate, in dollars; $E_{new}$ = New equipment average Producer Price Index (PPI) value; $E_{prior}$ = Prior equipment average PPI value. Using the above figures, the calculated new threshold, $(N_{new})$, is $9,890.62$, which is rounded to the nearest $100 for a final new reporting threshold of $9,900.
trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without having a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example, current FRA data indicate that 2,693 rail equipment accidents/incidents were reported in 2007, with small railroads reporting 364 of them. Data for 2008 show that 2,481 rail equipment accidents/incidents were reported, with small railroads reporting 294 of them. In 2009, 1,910 rail equipment accidents/incidents were reported, and small railroads reported 271 of them. In 2010, 1,902 rail equipment accidents/incidents were reported, with small railroads reporting 258 of them. In 2011, 2010 rail equipment accidents/incidents were reported, with small railroads reporting 267 of them. On average for those five calendar years, small railroads reported about 13% (ranging from 12% to 14%) of the total number of rail equipment accidents/incidents. FRA notes that these data are based on accidents/incidents reported by railroads with less than 400,000 employee hours per year. FRA’s accident reporting regulations require railroads to report employee hours; thus for purposes of 49 CFR part 225, FRA has historically categorized and displayed the data in this manner. Of the approximately 764 railroads in the United States, 731 fit into the category of less than 400,000 employee hours per year and the characteristics of such railroads are substantively similar to railroads otherwise considered small entities in accordance with FRA’s policy. Accordingly, because the number and characteristics of these railroads are consistent with those otherwise considered small entities FRA believes that this approach is appropriate. FRA notes, however, that these data are accurate as of the date of issuance of this final rule, and are subject to minor changes due to additional reporting. Absent this rulemaking (i.e., any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2012 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden, with small railroads reported 258 of them.

**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, 26547 (May 26, 1999). 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) [currently $143,100,000] in any one 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 will not result in the expenditure, in the aggregate, of $143,100,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” 66 FR 28355 (May 22, 2001). Under the Executive Order, a “significant energy action” is defined as any action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: That (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a “significant energy action” within the meaning of Executive Order 13211.

Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). See http://www.regulations.gov/#!privacyNotice for the privacy notice of regulations.gov or interested parties may review DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

List of Subjects in 49 CFR Part 225

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

The Rule

In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225—[AMENDED]

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