§ 42.24 Type-volume or page limits for petitions, motions, oppositions, replies, and sur-replies.

* * * * *

(c) Replies and sur-replies. The following word counts or page limits for replies and sur-replies apply and include any statement of facts in support of the reply. The word counts or page limits do not include a table of contents; a table of authorities; a listing of facts that are admitted, denied, or cannot be admitted or denied; a certificate of service or word count; or an appendix of exhibits.

* * * * *

4. Amend § 42.71 by revising the third sentence of paragraph (d) introductory text to read as follows:

§ 42.71 Decision on petitions or motions.

* * * * *

(d) * * * The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, a reply, or a sur-reply.

* * * * *

5. Revise § 42.108 to read as follows:

§ 42.108 Institution of inter partes review.

(a) When instituting inter partes review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim.

(b) At any time prior to institution of inter partes review, the Board may deny all grounds for unpatentability for all of the challenged claims. Denial of all grounds is a Board decision not to institute post-grant review.

(c) Post-grant review shall not be instituted unless the Board decides that the information presented in the petition demonstrates that it is more likely than not that at least one of the claims challenged in the petition is unpatentable. The Board’s decision will take into account a patent owner preliminary response where such a response is filed, including any testimonial evidence. A petitioner may seek leave to file a reply to the preliminary response in accordance with §§ 42.23 and 42.24(c). Any such request must make a showing of good cause.

* * * * *

8. Amend § 42.220 by revising paragraph (a) to read as follows:

§ 42.220 Patent owner response.

(a) Scope. A patent owner may file a single response to the petition and/or decision on institution. A patent owner response is filed as an opposition and is subject to the page limits provided in § 42.24.

* * * * *

Andrei Iancu,
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–27048 Filed 12–8–20; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


RIN 2060–AU54

Implementation of the Revoked 1997 8-Hour Ozone National Ambient Air Quality Standards; Updates to 40 CFR Part 52 for Areas That Attained by the Attainment Date; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of adverse comment, the Environmental Protection Agency (EPA) is withdrawing the October 9, 2020, direct final rule to update the Code of Federal Regulations (CFR) to codify its findings that nine areas in four states attained the revoked 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment dates. The EPA will address all comments received in a subsequent final rule for which the EPA will not institute a second comment period.

DATES: The direct final rule published on October 9, 2020 (85 FR 64046) is withdrawn effective December 9, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Raps, Air Quality Policy Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code: C539–01, Research Triangle Park, NC 27711, telephone (919) 541–4383; fax number: (919) 541–5315; email address: raps.virginia@epa.gov.

SUPPLEMENTARY INFORMATION: On October 9, 2020, the EPA published a direct final rule (85 FR 64046) to codify its findings that nine areas in four states attained the revoked 1997 8-hour ozone NAAQS by the applicable attainment dates. In the proposal for the direct final rule published on the same day (85 FR 64089), the EPA stated that written comments must be received on or before November 9, 2020. The EPA stated that if any relevant adverse comments are received on the proposal, the EPA will publish a timely withdrawal of the direct final rule in the Federal Register. On November 2, 2020, an anonymous comment was posted in the docket that the EPA interprets as relevant and adverse. Therefore, the EPA is withdrawing the direct final rule and will publish a subsequent final rule wherein the EPA will address all comments received. The EPA will not
institute a second comment period on
the subsequent final rule.

List of Subjects in 40 CFR Part 52

Environmental protection,
Administrative practice and procedure,
Air pollution control, Designations and
classifications, Incorporation by
reference, Intergovernmental relations,
Nitrogen oxides, Ozone, Reporting and
recordkeeping requirements, Volatile
organic compounds.

Andrew Wheeler,
Administrator.

PART 52—APPROVAL AND
PROMULGATION OF
IMPLEMENTATION PLANS

Accordingly, the rule amending 40
CFR 52.282, 52.350, 52.1683, and
52.2585 published in the Federal
Register on October 9, 2020 (85 FR
64046) is withdrawn effective
December 9, 2020.

[FR Doc. 2020–26960 Filed 12–8–20; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration

49 CFR Part 225
[Docket No. FRA–2014–0099, Notice No. 2]

RIN 2130–AC49
Revision of Method for Calculating
Monetary Threshold for Reporting Rail
Equipment Accidents/Incidents

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

ACTION: Final rule.

SUMMARY: FRA’s accident/incident
reporting regulation requires railroads to
report to FRA all rail equipment
accidents/incidents above the monetary
reporting threshold (reporting
threshold) applicable to that calendar
year. In this final rule, FRA amends this
regulation to modify the way it
calculates periodic adjustments to the
reporting threshold and the way it
communicates each calendar year’s
threshold to railroads. This final rule
will improve the accuracy of accident/
incident data gathered from the
railroads.

DATES: This final rule is effective
January 8, 2021.

ADDRESSES: Docket: For access to
the docket to read background documents
or comments received, go to http://
www.regulations.gov at any time or visit
U.S. Department of Transportation,
Docket Operations, West Building
Ground Floor, Room W12–140, 1200
New Jersey Avenue SE, Washington, DC
20590, between 9 a.m. and 5 p.m.,
Monday through Friday, except Federal
holidays.

FOR FURTHER INFORMATION CONTACT:
Prabhdeep S. Chawla, Industry
Economist, U.S. Department of
Transportation, Federal Railroad
Administration, Office of Safety
Analysis, RRS–21, W33–321, 1200 New
Jersey Ave. SE, Washington, DC 20590
(telephone 202–493–6298); or Senya
Waas, Attorney Adviser, U.S.
Department of Transportation, Federal
Railroad Administration, Office of Chief
Counsel, RCC–10, W31–223, 1200 New
Jersey Ave. SE, Washington, DC 20590

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I. Executive Summary

On May 17, 2019, FRA published a
notice of proposed rulemaking (NPRM)
proposing two technical revisions to the
formula for calculating its accident/
incident reporting threshold and an
administrative change to the way FRA
communicates the reporting threshold
applicable to the upcoming year. See 84
FR 22410. This final rule substantially
adopts all of the proposals in the
NPRM. First, FRA revises the percentage
term used to determine a change in
equipment costs, so it is consistent with
the percentage term used to determine
a change in labor costs. Second, to
reflect overall economic data trends
better, this final rule revises the formula
to use full-year data instead of only
second-quarter data to calculate the
reporting threshold. Third, FRA is
revising 49 CFR 225.19(e) to indicate
that it will publish an annual notice on
its website stating the reporting
threshold for the upcoming calendar
year (CY). FRA will publish this annual
notice on its website no later than
November 30th of each year, providing
at least one month advance notice to
stakeholders of the new threshold before
it becomes effective. Issuing a notice
each year, as opposed to a final rule,
will simplify and expedite the
communication of the reporting
threshold, and will be more practical
and efficient than FRA annually
publishing a final rule incorporating the
reporting threshold amount in the rule
text in 49 CFR 225.19(c) and (e).

In the NPRM, FRA proposed no
revisions to 49 CFR 225.19(c) regarding
rail equipment accidents. However,
because that section currently lists the
reporting threshold for each calendar
year since 2002, FRA is revising that
section to remove those specific
references consistent with the revisions
to § 225.19(e) discussed above.

Specifically, FRA will no longer publish
each year’s reporting threshold in the
rule text of part 225. Instead, each year,
FRA will issue a notice announcing the
reporting threshold for the upcoming
year.

FRA analyzed the economic impacts of
this final rule against a “no action”
baseline reflecting what would happen
in the absence of this final rule. That is,
what would happen if the reporting
threshold continued to be calculated
according to the current, technically-
flawed formula. FRA estimated that,
going forward, the technical revisions to
the reporting threshold formula adopted
in this final rule will yield slightly
lower reporting thresholds than the
existing formula would produce. This
lower threshold will likely result in
railroads being required to report more
rail equipment accidents/incidents
under this final rule. As noted in the
NPRM, FRA estimated this rule would
cause the railroads to report an average
of 140 more rail equipment accidents/
incidents annually over the 10-year
period from 2019 to 2028.\(^1\) The present
value of the costs to report these
accidents/incidents to FRA totals
$138,913 using a 7 percent discount
rate, and $170,744 using a 3 percent
discount rate. The annualized costs are
$19,778 using a 7 percent discount rate,
and $20,016 using a 3 percent discount
rate. To place the estimated marginal
increase in reported rail equipment
accidents/incidents in perspective, the
expected increase represents about 7.5
percent of the 1,850 total reported rail
equipment accidents/incidents every
year (an average over the years 2014 to
2018)—and an even smaller percentage
of the approximately 12,000 total

\(^1\) This estimate was based on projections using
data from 2006–2018, as described in the NPRM.