

connection with the injury or illness; or take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication.

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PART 225—[AMENDED]

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

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.49.

4. Section 225.5 is amended as follows:

a. By revising paragraph (3) of the definition of the term *Accident/incident*;

b. By revising the definitions of the terms *Accountable injury or illness*, *Day away from work*, *Day of restricted work activity*, *Medical treatment*, and *Occupational illness*;

c. By removing the term *Arising from the operation of a railroad* and its definition; and

d. By adding definitions of the terms *Covered data*, *Event or exposure arising from the operation of a railroad*, *General reporting criteria*, *Medical removal*, *Musculoskeletal disorder*, *Needlestick or sharps injury*, *New case*, *Occupational hearing loss*, *Occupational tuberculosis*, *Privacy concern case*, *Significant change in the damage costs for reportable rail equipment accidents/incidents*, *Significant change in the number of reportable days away from work or days restricted*, *Significant illness*, and *Significant injury* to read as follows:

§ 225.5 Definitions.

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Accident/incident means:

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(3) Any event or exposure arising from the operation of a railroad, if the event or exposure is a discernable cause of one or more of the following outcomes, and this outcome is a new case or a significant aggravation of a pre-existing injury or illness:

(i) Death to any person;

(ii) Injury to any person that results in medical treatment;

(iii) Injury to a railroad employee that results in:

(A) A day away from work;

(B) Restricted work activity or job transfer; or

(C) Loss of consciousness;

(iv) Occupational illness of a railroad employee that results in any of the following:

(A) A day away from work;

(B) Restricted work activity or job transfer;

(C) Loss of consciousness; or

(D) Medical treatment;

(v) Significant injury to or significant illness of a railroad employee diagnosed by a physician or other licensed health care professional even if it does not result in death, a day away from work, restricted work activity or job transfer, medical treatment, or loss of consciousness;

(vi) Illness or injury that meets the application of any of the following specific case criteria:

(A) Needlestick or sharps injury to a railroad employee;

(B) Medical removal of a railroad employee;

(C) Occupational hearing loss of a railroad employee;

(D) Occupational tuberculosis of a railroad employee; or

(E) Musculoskeletal disorder of a railroad employee if this disorder is independently reportable under one or more of the general reporting criteria.

Accountable injury or illness means any condition, not otherwise reportable, of a railroad employee that is discernably caused by an event, exposure, or activity in the work environment which condition causes or requires the railroad employee to be examined or treated by a qualified health care professional.

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Covered data means information that must be reported to FRA under this part concerning a railroad employee injury or illness case that is reportable exclusively because a physician or other licensed health care professional—

(1) Recommended in writing that—

(i) The employee take one or more days away from work when the employee instead reports to work (or would have reported had he or she been scheduled) and takes no days away from work in connection with the injury or illness,

(ii) The employee work restricted duty for one or more days when the employee instead works unrestricted (or would have worked unrestricted had he or she been scheduled) and takes no days of restricted work activity in connection with the injury or illness, or

(iii) The employee take over-the-counter medication at a dosage equal to or greater than the minimum prescription strength, whether or not the employee actually takes the medication; or

(2) Made a one-time topical application of a prescription-strength medication to the employee's injury.

Day away from work means a day away from work as described in paragraph (1) of this definition or, if

paragraph (1) does not apply, a day away from work solely for reporting purposes as described in paragraph (2) of this definition. For purposes of this definition, the count of days includes all calendar days, regardless of whether the employee would normally be scheduled to work on those days (e.g., weekend days, holidays, rest days, and vacation days), and begins on the first calendar day after the railroad employee has been examined by a physician or other licensed health care professional (PLHCP) and diagnosed with a work-related injury or illness. In particular, the term means—

(1) Each calendar day that the employee, for reasons associated with his or her condition, does not report to work (or would have been unable to report had he or she been scheduled) if not reporting results from:

(i) A PLHCP's written recommendation not to work, or

(ii) A railroad's instructions not to work, if the injury or illness is otherwise reportable; or

(2) A minimum of one calendar day if a PLHCP, for reasons associated with the employee's condition, recommends in writing that the employee take one or more days away from work, but the employee instead reports to work (or would have reported had he or she been scheduled). This paragraph is intended to take into account "covered data" cases and also those non-covered data cases that are independently reportable for some other reason (e.g., "medical treatment" or "day of restricted work activity"). The requirement to report "a minimum of one calendar day" is intended to give a railroad the discretion to report up to the total number of days recommended by the PLHCP.

Day of restricted work activity means a day of restricted work activity as described in paragraph (1) of this definition or, if paragraph (1) does not apply, a day of restricted work activity solely for reporting purposes as described in paragraph (2) of this definition; in both cases, the work restriction must affect one or more of the employee's routine job functions (i.e., those work activities regularly performed at least once per week) or prevent the employee from working the full workday that he or she would otherwise have worked. For purposes of this definition, the count of days includes all calendar days, regardless of whether the employee would normally be scheduled to work on those days (e.g., weekend days, holidays, rest days, and vacation days), and begins on the first calendar day after the railroad employee has been examined by a