



HUMAN PERFORMANCE FACTORS ATTACHMENT

FRA Post-Accident Testing Guidance & Definitions

Revised January 1, 2023

Delray Beach, FL

HWY23MH006

(6 pages)



FRA POST-ACCIDENT TESTING GUIDANCE & DEFINITIONS
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QUALIFYING CRITERIA

1. Major Train Accident¹ \$11,500 reportable damage (01/01/2023) and:
_____ Fatality; or
_____ \$1.5 Million railroad property damage; or
_____ Release of Hazmat Lading and Evacuation; or
_____ Release of Hazmat Lading and Reportable Injury
from product
2. Impact Accident² \$11,500 Reportable Damage (01/01/2023) and:
_____ Reportable Injury; or
_____ \$150,000 or more Reportable Property Damage
3. Passenger Train Accident³ \$11,500 reportable damage (01/01/2023) and
_____ Reportable Injury to any Person in a Passenger
Train accident
4. Fatal Train Incident⁴ _____ Fatality to an On-duty Railroad Employee or
Contractor
5. Human-Factor Highway-Rail Grade Crossing Accident/Incident⁵

_____ Regulated employee interfered with the normal functioning of a grade crossing signal system without providing for safety of highway traffic. [§ 234.209]

_____ Train crewmember failed to flag highway traffic to stop after the occurrence of an activation failure, partial activation, or false activation.
[§ 234.105(c)(3)]

_____ Regulated employee who was performing, or should have been performing, the duties of an appropriately equipped flagger (as defined in § 234.5), but who failed to do so, after the occurrence of an activation failure, partial activation, or false activation of the grade crossing signal system. [§234.105(c)(1) and (2), §234.106, or §234.107 (c)(1)(i)]

_____ Fatality of any regulated service employee regardless of fault.

_____ Regulated employee violated FRA regulation or railroad operating rule which may have contributed to the accident's cause or severity.

NOTE: The REPORTING THRESHOLD (\$11,500 reportable railroad property damage beginning 01/01/2023) must be met for all of the above, **except for** a Fatal Train Incident and a Human-Factor Highway-Rail Grade Crossing Accident/Incident.

EXCEPTIONS FROM TESTING:

- Collision between railroad rolling stock/equipment and a motor vehicle or other highway conveyance at a highway-rail grade crossing⁵ unless it meets the criteria set forth above in Item 5.
- An accident/incident, the cause and severity of which are **wholly attributable** to:
 - (a) Natural cause (e.g., flood, tornado or other natural disaster); or
 - (b) Vandalism or trespasser(s)

¹ TRAIN ACCIDENT means a passenger, freight, or work train accident described in 225.19(c) (a “rail equipment accident” involving damage in excess of the current reporting threshold), including an accident involving a switching movement. Rail equipment accidents 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 to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material.

² IMPACT ACCIDENT means a train accident (i.e., a rail equipment accident involving damage in excess of the current reporting threshold) consisting of a head-on collision, a rear-end collision, or impact with a deliberately placed obstruction such as a bumping post (not derail). The following are NOT impact accidents (but could meet the criteria for other qualifying accidents): (a) an accident in which the derailment of equipment causes an impact with other rail equipment; (b) impact of rail equipment with obstructions such as fallen trees, rock or snow slides, livestock, etc.; and (c) raking collisions caused by derailment of rolling stock/equipment or operation of equipment in violation of clearance limitations (but other raking collisions are included, see definition on page 4).

³ PASSENGER TRAIN means a train transporting persons (other than employees, contractors, or persons riding equipment to observe or monitor railroad operations) in intercity passenger service, commuter or other short-haul service, or for excursion or recreational purposes.

⁴ TRAIN INCIDENT means an event involving the movement of railroad on-track equipment that results in a casualty but does not result in railroad property damage exceeding the reporting threshold.

⁵ HIGHWAY-RAIL GRADE CROSSING means (a) a location where a public highway, road, or street crosses one or more railroad tracks at grade; (b) a private roadway, including associated sidewalks, that crosses one or more railroad tracks at grade, and (c) a pathway authorized by a public authority or a railroad carrier that is dedicated for the use of non-vehicular traffic, and (d) all crossing locations within industry and rail yards, ports, and dock areas (See § 225.5 of FRA’s Accident and Incident Reporting regulation.)

DECIDING WHO TO TEST:

- (A) For a Major Train Accident – Test all crewmembers of all involved trains and on-track equipment [and others per (D) below]
- (B) For an Impact Accident, Passenger Train Accident, or Fatal Train Incident – An employee must be excluded from testing if the railroad representative can immediately determine, on the basis of specific information, that the employee had no role in the cause(s) or severity of the accident/incident (**except** the remains of all **fatally** injured employees involved in a qualifying event must be tested)
- (C) An Impact Accident, Passenger Train Accident, or Fatal Train Incident that also qualifies as a Major Train Accident **is** a Major Train Accident. The railroad must therefore test all crewmembers of all involved trains and on-track equipment [and others per (D) below] must be tested.
- (D) Other Regulated Service Employees: For all five types of accident/incidents, test any involved regulated service employees such as an operator, train dispatcher, roadway worker or signal employee if they may be directly and contemporaneously involved in the circumstances of the accident/incident.

EMPLOYEE FATALITIES: The remains of any on-duty railroad employee or contractor who dies within 12 hours as a result of a qualifying accident or incident must be post-mortem tested.

WHEN AN EMPLOYEE MUST BE RECALLED FOR TESTING: A railroad must immediately recall and place on duty a regulated employee for post-accident drug testing, if the following criteria are met:

1. The employee could not be retained in duty status because he or she went off duty under normal railroad procedures before being contacted by a railroad supervisor and instructed to remain on duty pending completion of the required determinations (e.g., a dispatcher or signal maintainer remote from the scene of an accident who was unaware of the occurrence at the time he or she went off duty); and
2. Preliminary investigation contemporaneous with the determination (required by § 219.201) indicates a clear probability that the employee played a role in the cause or severity of the accident/incident.

If both of the above criteria are met, the employee must be recalled for urine and blood testing even if the qualifying event did not happen while the employee was on-duty. Recall must be within the 24-hour period after a qualifying event.

If the employee left railroad property before being recalled, his or her specimens must be tested for drugs only. A railroad is prohibited from requiring a recalled employee for breath alcohol testing, unless the regulated employee has remained on railroad property since the qualifying event occurred and the railroad's company policy completely prohibits the use of alcohol on railroad property.

A railroad must document its attempts to contact an employee subject to the recall provisions of this section.

If a railroad is unable, due to the non-cooperation of an employee or other reason, to obtain and submit to FRA specimen(s) from an employee subject to mandatory recall within 24-hours after a qualifying event, the railroad must contact FRA and prepare a concise narrative report documenting its good faith attempts to contact and recall the employee.

OTHER DEFINITIONS

HIGHWAY-RAIL GRADE CROSSING: See footnote 5 on page 2.

ON-TRACK EQUIPMENT: Note that the *FRA Guide for Preparing Accident/Incident Reports* defines on-track equipment to include an equipment consist (train, locomotive, cut of cars, or a single car not coupled to another car or locomotive), locomotive, motorcar, train, yard switching train, or work train. These definitions include a track motorcar, hi-rail vehicle, push car, crane, and ballast tamping machine.

RAKING COLLISION: A collision between parts or lading of a consist on an adjacent track, or with a structure such as a bridge.

ROLLING EQUIPMENT: Locomotive, railroad cars, and one or more locomotives coupled to one or more railroad cars.

HEAD-ON COLLISION: A collision in which the trains or locomotives involved are traveling in opposite directions on the same track.

SIDE COLLISION: A collision when one consist strikes the side of another consist at a turnout, including a collision at a switch or at a railroad crossing at grade. (Effective 03/04/22)

REAR-END COLLISION: A collision in which the trains, locomotives, or on-track roadway maintenance machines involved are traveling in the same direction on the same track.

REPORTABLE DAMAGE: Includes:

- Labor costs and all other costs to repair or replace in kind, damaged on-track equipment, signals, track, track structures (including bridges or tunnels), and roadbed. Labor costs include hourly wages, transportation costs, and hotel expenses, but not fringe benefits or overhead.
- Rental and/or operation of machinery such as cranes and bulldozers, including the services of contractors to replace or repair the track right-of-way and associated structures.
- Costs associated with the repair or replacement of roller bearings on units that were derailed or submerged in water (replacement costs include the labor costs resulting from a wheel set change out).

It does NOT include:

- The cost of clearing a wreck; however, additional damage to the above listed items caused while clearing the wreck should be included in your damage estimate.
- Damage to trailers/containers on flat cars (considered lading); however, damage to a flat car carrying a trailer/container is included.