From: Kilgore, Kenton (FRA)
To: Alexy, Karl (FRA); David Casaceli; Michael Hiller; FRA.NTSB.email
Cc: Ruben Payan; Baker, Daniel (FRA); [redacted]@dot.gov; Henriksen, Lucinda (FRA); Zhang, Yujiang (FRA)
Subject: RE: Response to questions regarding the contractor fatality at great Barrington, MA
Date: Tuesday, January 23, 2024 12:33:21 PM
Attachments: NTSB Response Followup Greater Barrington final.docx

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David, please see the attached. Thank you for your patience.

Respectfully,

Kenton Kilgore
RSAC Coordinator
[redacted]

1. *Is Middlesex Corporation considered a railroad contractor or contractor to a railroad for the purposes of Parts 214, 225, 243, and other CFR parts?*

a. *If yes, which entity is considered the 'railroad' regarding the regulations that put requirements on a railroad utilizing contractors? Is that entity the same for all FRA regulations? (Example 1: Part 243.209 requires railroads to maintain a list of contractors utilized; who must keep this list: MassDOT or the Housatonic Railroad? Example 2: Part 225 requires railroads to report injuries/fatalities that occur to railroad contractors to the FRA; which entity was required to report this fatality?)*

(1.) Yes, FRA considers Middlesex Corporation a Contractor.

(a.) For purposes of this accident, MassDOT, as the contracting railroad, has reporting responsibility under Part 225. However, the relationship between MassDOT and Housatonic is unique, and FRA will be working with both railroads moving forward to determine each railroad's responsibility under different regulations .

2. *Is MassDOT considered a 'railroad' or 'railroad contractor' under FRA regulations, such as Parts 214, 225, 243, or other CFR parts?*

Because MassDOT is a track owner, it is considered a railroad.

3. *Regarding this accident, was the fatality properly reported to FRA? If not, please provide any additional relevant details you may have.*

The fatality has not yet been reported, per 49 CFR Part 225 requirements. While MassDOT and Housatonic are both considered railroads, Housatonic, as the operating railroad, has been reporting injuries/fatalities on this line. However, since MassDOT hired the contractor in this case, MassDOT is responsible for reporting this accident. FRA is currently working with MassDOT to ensure MassDOT properly reports this accident under Part 225.