From: Baker, Daniel (FRA)
To: David Casaceli; Kilgore, Kenton (FRA)
Cc: FRA.NTSB.email; Ruben Payan; Troy Lloyd; Pirato, Michael (FRA); Dana Sanzo; Zhang, Yujiang (FRA); Wilson, Donald (FRA); Presser, Timothy (FRA)
Subject: RE: Information Request: Great Barrington, MA Fatality
Date: Wednesday, December 20, 2023 2:26:34 PM

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Hi Dave,

Below are FRA's official responses to # 4, 5, and 6. By my count, that just leaves us with #11 outstanding, is that correct?

4. FRA's General Manual includes "General Inspection Principles", specifically, "…Plan inspections based on criteria such as compliance history and accident or incident data, as well as less measurable criteria such as experience of employees and supervisors, compliance attitude, and safety culture…" 49 CFR Part 209 - Railroad Safety Enforcement Procedures, includes two appendices: Appendix A to Part 209—Statement of Agency Policy Concerning Enforcement of the Federal Railroad Safety Laws and Appendix C to Part 209—FRA's Policy Statement Concerning Small Entities. These describe FRA's enforcement policies and the specifics to address the unique nature of small entities in the imposition of civil penalties and resolution of those assessments

Specific to the Track and Structures Division, FRA track inspectors plan their inspection calendars to maximize effective inspection coverage of track assets in their assigned territories. Many factors are weighed to create a schedule, such as, but not limited to, FRA's Asset Inventory of Railroads and Shippers (AIRS), ATIP Data, historical inspection and violation data, FRA's Territory Optimization Planning System (TOPS), district specialist and leadership input, freight tonnage, speed, hazmat, passenger service, population density, special trackwork, crossings, historic derailment and injury performance, railroad capital programs and maintenance work, local inspector knowledge, focus inspections, FRA audits, public concerns, and railroad employee concerns. Inspectors' schedules are reviewed by FRA district specialists and leadership and monitored throughout the year. There is not a separate process to determine short line railroad inspection frequency. Additionally, there is no guidance specific to short lines when considering civil penalties.

5. Generally, contractors are not analyzed separately from the host railroad, see answer to #4 above.

6. FRA's current reporting requirements do not generally require contractors to report number of employees or work hours. While FRA has some data regarding the number of railroad contracting companies and the number of employees from the 49 CFR 219 reporting requirements that relate to FRA's alcohol and drug testing requirements (including FRA-approved railroad random testing programs that must enumerate the railroad employees subject to random testing), the nature of the data does not lend itself to computing the requested statistics. Depending on the specific job title/ craft, FRA could report the number of employees, but no data is collected on work hours or hours of service, so no "rate" could be calculated. Certain commuter and passenger railroads that are operated by contractors such as Keolis, Herzog, and Bombardier are regularly audited by the Part

219 Program for compliance. Generally, FRA reviews the safety performance of the railroad, including any contractors on that property, to determine whether additional oversight is necessary. Incidents at small maintenance-of-way contractors are episodic and fortunately don't occur with the frequency required for statistical significance.

Thank you,

Daniel Baker
Federal Railroad Administration
[redacted]