

by using the test of whether the services were incidental to an A-E project, instead of the test of whether the services were traditional A-E services) and *Fodrea Land Surveys*, B-236413, Oct. 19, 1989, 89-2 CPD § 364 (denying a protest where agency planned to use Brooks Act procedures to secure cadastral land surveying services because the record did not indicate that the surveying and mapping services were not traditional A-E services).

2. *Comments that the Brooks Act applies to acquisition of some mapping services.*

Most respondents (including all Government respondents) concur that the Brooks Act does not apply to acquisition of all mapping services.

A few recommend that the FAR should be modified to make the Brooks Act procedures less applicable to the acquisition of mapping services.

Most respondents recommend no change to the FAR. Though these respondents offer different agency, mission-specific decision criteria for using Brooks Act procedures, all Government respondents agreed the exercise of this discretion was currently available in the FAR and strongly object to any change that would reduce or remove this flexibility.

Response: The Councils have determined, based on interpretation of the Brooks Act and decisions of the Comptroller General, reaffirmed by NCEES and NCARB guidance, that the best solution is to retain FAR Part 36 without revision.

Any criticism of the Brooks Act itself is outside the scope of this case.

Questions as to whether or not a specific procurement of mapping services comes within the scope of the Act, must continue to be resolved by the contracting officers and their technical representatives in line with the policies and procedures of each Federal agency.

Dated: April 12, 2005.

Julia Wise,

Director, Contract Policy Division.

[FR Doc. 05-7734 Filed 4-18-05; 8:45 am]

BILLING CODE 6820-EP-S

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA-2005-20680, Notice No. 1]

RIN 2130-AB65

Revision of Method for Calculating Monetary Threshold for Reporting Rail Equipment Accidents/Incidents

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

ACTION: Notice of proposed rulemaking.

SUMMARY: FRA is proposing to amend a portion of the accident reporting regulations. Specifically, FRA proposes to amend the method for calculating the monetary threshold for reporting rail equipment accidents/incidents. The amendment is necessary because, in 2001, the Bureau of Labor Statistics (BLS) ceased collecting and publishing railroad wage data used by FRA in the calculation. Consequently, FRA has had to seek a new source of publicly-available data. FRA is recommending the use of wage data collected and maintained by the Surface Transportation Board (STB) in place of the unavailable BLS wage data. As equipment data remain available from the BLS, no change is proposed in the source of the equipment component of the reporting threshold. The purpose of the rule is to ensure and maintain comparability between different years of accident data by having the threshold keep pace with any increases or decreases in equipment and labor costs so that each year accidents involving the same minimum amount of railroad property damage are included in the reportable accident counts.

DATES: (1) Written comments: Must be received on or before June 20, 2005. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) Public Hearing: If any person desires an opportunity for oral comment, he or she should notify FRA in writing and specify the basis for the request. FRA will schedule a public hearing in connection with this proceeding if the agency receives a written request for a hearing by June 3, 2005.

ADDRESSES: Anyone wishing to file a comment should refer to the FRA docket and notice numbers (Docket No. FRA-2005-20860, Notice No. 1). You may submit your comments and related

material by only one of the following methods:

By mail to the Docket Management System, United States Department of Transportation, room PL-401, 400 7th Street, SW., Washington, DC 20590-0001; or electronically through DOT's Web site for the Docket Management System at <http://dms.dot.gov>. For instructions on how to submit comments electronically, visit the Docket Management System Web site and click on the "Help" menu.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and documents, as indicated in this preamble, will become part of this docket, and will be available for inspection or copying at room PL-401 on the Plaza Level of the Nassif Building at the same address during regular business hours. You may also obtain access to this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Robert L. Finkelstein, Special Assistant to the Director, Office of Safety Analysis, RRS-22, Mail Stop 17, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202-493-6280) or Roberta Stewart, Trial Attorney, Office of Chief Counsel, RCC-12, Mail Stop 10, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202-493-6027).

SUPPLEMENTARY INFORMATION:

Background

A "rail equipment accident/incident" is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that causes reportable damages greater than the reporting threshold for the year in which the event occurs to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and materials. 49 CFR 225.19(c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c). As revised, effective in 1997, paragraphs (c) and (e) of 49 CFR 225.19 provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225, to reflect any cost increases or decreases. 61 FR 30942, 30969 (June 18, 1996); 61 FR 60632, 60634 (Nov. 29, 1996); 61 FR 67477, 67490 (Dec. 23, 1996). As stated in the procedures in appendix B, data from the BLS are used to calculate the

threshold. "The equation used to adjust the reporting threshold uses the average hourly earnings reported for Class I railroads and Amtrak, and an overall railroad equipment cost index determined by the BLS." 49 CFR Part 225, App. B, paragraph 1. The formula set forth in appendix B is consistent with 49 U.S.C. 20901(b), which reads as follows:

(b) Monetary threshold for reporting.

(1) In establishing or changing a monetary threshold for the reporting of a railroad accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

The Current Reporting Threshold and Formula for Computing It

Approximately two years have passed since the rail equipment accident/incident reporting threshold was last reviewed and revised. 67 FR 79533 (Dec. 30, 2002). At that time, FRA published an interim final rule carrying over the \$6,700 threshold from calendar year 2002 to 2003 and subsequent years until a new threshold is adopted. 49 CFR 225.19(c). The calendar year 2002 threshold has been kept in place because the BLS ceased publishing certain data required to compute the wage component of the calculation, *i.e.*, the average hourly earnings of production workers for Class I railroads and Amtrak, due to inadequate sampling data. Specifically, the Class I railroads and Amtrak did not provide the monthly hours and earnings data for production workers that BLS needed to publish these numbers for calendar year 2002. BLS did not foresee a better response rate in future years and, as a result, changed its methodology and the information that it publishes. Therefore, it was not possible for FRA to calculate a new threshold for calendar years 2003 and beyond based on the existing formula.

Starting with the calculation of the 1997 calendar year threshold, FRA has used the method described in Appendix B to Part 225—Procedure for Determining Reporting Threshold. This

procedure uses data from the BLS to update both labor and equipment prices. The threshold is currently calculated according to the following formula:

$$T_{\text{new}} = T_{\text{prior}} * [1 + 0.5(W_{\text{new}} - W_{\text{prior}})/W_{\text{prior}} + 0.5(E_{\text{new}} - E_{\text{prior}})/100]$$

Where:

T_{new} = New threshold.

T_{prior} = Prior threshold.

With reference to the threshold, "prior" refers to the previous threshold rounded to the nearest \$100, as reported in the **Federal Register**.

W_{new} = New average hourly wage rate, in dollars.

W_{prior} = Prior average hourly wage rate, in dollars.

E_{new} = New equipment average PPI [Producer Price Index] value

E_{prior} = Prior equipment average PPI value.

With reference to wages and equipment, "prior" refers to the previous wage and equipment averages used to calculate the prior threshold, T_{prior} . "Prior" does not necessarily refer to the wage and equipment averages for the immediately preceding year (although it may if the threshold is calculated annually). In calculating the threshold, the goal is to capture the change between the old wage and equipment prices and the new prices for these inputs.

The existing formula represents the general assumption that damage repair costs, at levels at or near the threshold, are split approximately evenly between labor and materials. Thus, labor and materials each comprise 50%, or 0.5 of the total cost. For the equipment component, BLS reports prices under LABSTAT Series Report, Producer Price Index (PPI) for Commodities, Series ID WPU144 for Railroad Equipment. These prices are reported as a monthly index number. For the wage component, BLS reported the wage in LABSTAT Series Report, Standard Industrial Code (SIC) 4011 for Class I Railroad Average Hourly Earnings. The wage was reported monthly in dollars. In calculating the threshold, the monthly labor and equipment figures for the 12-month period ending in June are summed and then divided by 12, to provide a monthly average of each component. After calculating the new threshold, it is rounded to the nearest \$100.

FRA's Proposed Revision of the Formula

Since publishing that interim final rule, FRA has conducted research to find a new source of similar wage data, and evaluated possible revisions of the existing formula. FRA last revised the

monetary threshold formula in 1996. 61 FR 30940 (June 18, 1996); 61 FR 60632 (November 29, 1996). Currently, the accident/incident reporting threshold adjustment is calculated utilizing two components. The first component is the average hourly earnings for Class I railroads and Amtrak workers. BLS was collecting these data and reporting them under LABSTAT Series Report, Standard Industrial Code (SIC) 4011 for Class I Railroad Average Hourly Earnings, Series ID EEU41401106, Not Seasonally Adjusted. These data are no longer available from BLS.

In order to update the reporting threshold, FRA has searched for a new source of the wage component used in the reporting threshold formula. FRA found that railroads report wage data to the DOT/Surface Transportation Board (STB), and proposes to use these data as an alternative to the obsolete BLS data. The Class I railroads and Amtrak report hours of service and compensation data quarterly to the STB, on Form A—STB Wage Statistics. Form A organizes hours of service and compensation by five reporting groups: Executives, Officials, and Staff Assistants (Group No. 100); Professional and Administrative (Group No. 200); Maintenance of Way and Structures (Group No. 300); Maintenance of Equipment and Stores (Group No. 400); and Transportation, other than train and engine (Group No. 500). By dividing the compensation by the corresponding hours of service, the wage rate for any reporting group can be found. FRA proposes to use the average wage rate of reporting Groups No. 300 and 400 as a substitute for the BLS wage data.

FRA feels that the STB wage data are a suitable substitute for several reasons. Most significantly, the data directly measure the wages for the two groups of employees whose skills are most used in repairing or replacing damaged railroad equipment. In contrast, BLS wage data were a broader measure of all Class I and Amtrak employee wages. Alternative BLS wage data currently available also provide only broad measures.

STB data are, additionally, consistent with Congressional requirements set forth in 49 U.S.C. 20901(b). The STB data are publicly available, although currently only in paper hardcopy, and the information is statistically sound. STB data are almost a census of Class I and Amtrak railroads (though the occasional railroad may be late in reporting) and should therefore represent a more accurate and statistically valid account of railroad wages.

To further ascertain the suitability of STB wage data as a substitute for unavailable BLS wage data, FRA recalculated the 1997 to 2002 reporting thresholds using STB data. This a posteriori comparison of STB- and BLS-based thresholds showed STB data are a reasonable substitute. The analysis also showed that weighting the wage component by 40% and the equipment component by 60%, rather than the 50/50 current weights, produced a threshold that better approximated the existing threshold. The STB-based threshold, however, does increase at a faster rate than the BLS-based threshold. With 40/60 weights on wages and equipment, the new reporting threshold formula changes to:

$$T_{new} = T_{prior} * [1 + 0.4(W_{new} - W_{prior})/W_{prior} + 0.6(E_{new} - E_{prior})/100]$$

where the broad definitions of the variables remain the same as before but the underlying definitions of "Wnew" and "Wprior" are revised to reflect the use of STB wage data.

In applying this new formula to periodically update the reporting threshold, FRA proposes using the latest data that would be available when the threshold is updated, instead of an average based on yearly data. As the threshold is typically calculated in the second half of the calendar year, and STB wage data are due 30 days after the close of a quarter, the latest STB data available will be second-quarter data. For example, if the new proposed formula is adopted, the calculation for the 2005 threshold would use the second-quarter 2004 wage data from the STB. For equipment costs, FRA would continue to use the corresponding BLS railroad equipment index in the equation. As the equipment index is reported monthly rather than quarterly, the average for the months of April, May, and June would be inputted into the threshold calculation. The newly calculated threshold would reflect the changes in wages and equipment from the last time the threshold was updated to the present.

For example, the values inserted into the proposed new formula for calculating a new threshold would be as follows:

T_{prior} = Prior threshold. The previously calculated threshold, rounded to the nearest \$100. For 2002 and subsequent years, until further notice, the threshold has been \$6,700.

W_{new} = New average hourly wage rate, in dollars. Based on STB wage data, W_{new} is the average of Group No. 300 and Group No. 400 employee wages for the second quarter 2004, equal to

about \$20.53. All railroads had reported, except Amtrak, at the time of calculation.

W_{prior} = Prior average hourly wage rate, in dollars. Based on STB wage data, W_{prior} is the average of the same STB wage data as used for W_{new} , for the second quarter of 2001 in this case, equal to about \$20.62.

E_{new} = New equipment average PPI value. Based on the BLS railroad equipment index, E_{new} is the average of the index values for April, May, and June (*i.e.*, the second quarter) of 2004, equal to 142.63.

E_{prior} = Prior equipment average PPI value. Based on the BLS railroad equipment index, E_{prior} is the average of the index values for the second quarter of 2001, equal to 135.60.

Substituting the above values into the proposed new formula would yield a threshold value of \$6,971.35, rounded to \$7,000, for calendar year 2005. Explicitly, the threshold is calculated by the following steps. The result is rounded at the end of the calculation.

$$\begin{aligned} T_{new} &= T_{prior} \times [1 + 0.4(W_{new} - W_{prior})/W_{prior} + 0.6(E_{new} - E_{prior})/100] \\ T_{new} &= \$6,700 \times [1 + 0.4(\$20.52902 - \$20.61667)/\$20.61667 + 0.6(142.63333 - 135.60)/100] \\ T_{new} &= \$6,700 \times [1 + 0.4(-0.00425) + 0.6(0.07033)] \\ T_{new} &= \$6,700 \times [1 + (-0.00170) + (0.04220)] \\ T_{new} &= \$6,700 + (-\$11.39) + \$282.74 \\ T_{new} &= \$6,971.35, \text{ which rounded to the nearest } \$100 \text{ is } T_{new} = \$7,000. \end{aligned}$$

By way of explanation, the -\$11.39 amount represents the change in the wage component and the \$282.74 amount represents the change in the equipment component. The new threshold is found by adding the changes to the prior threshold. t number, 312 were reported by small railroads. In 2002, 2,738 rail equipment accidents/incidents were reported, with small railroads reporting 255 of them. Most recently, 2,950 rail equipment accidents/incidents were reported in 2003, and small railroads reported 269 of them. In each of those three calendar years, small railroads reported ten percent or less of the total number of rail equipment accidents/incidents.

Notice-and-Comment Procedures

In accordance with Executive Order 12866, FRA is allowing 60 days for comments. FRA believes that a 60-day comment period is appropriate to allow the public to comment on this proposed rule. FRA solicits written comments on all aspects of this proposed rule.

Regulatory Impact and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and determined to be non-significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034; Feb. 26, 1979).

Regulatory Flexibility Act of 1980 and Executive Order 13272

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612) requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), FRA has issued a final policy that formally establishes "small entities" as including railroads that meet the line-haulage revenue requirements of a Class III railroad. 49 CFR part 209, app. C. For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. *Id.*

About 630 of the approximately 680 railroads in the United States are considered small entities by FRA. FRA certifies that this proposed rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral or insignificant. The frequency of rail equipment accidents/incidents, and therefore also the frequency of required reporting, is generally proportional to the size of the railroad. A railroad that employs thousands of employees and operates trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without have a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example 3,023 rail equipment accidents/incidents were reported as occurring in calendar year 2001. Of that number, 312 were reported by small railroads. In 2002, 2,738 rail equipment accidents/incidents were reported, with small railroads reporting 255 of them. Most recently, 2,950 rail equipment accidents/incidents were reported in 2003, and small railroads reported 269 of them. In each of those three calendar years, small railroads ten percent or less of the total number of rail equipment accidents/incidents.

Absent this rulemaking (*i.e.*, any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2002 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden would not be significant, and would affect the large railroads more than the small entities, due to the higher proportion of reportable rail equipment accidents/incidents experienced by large entities.

Paperwork Reduction Act of 1995

There are no new information collection requirements associated with this proposed rule. Therefore, no estimate of a public reporting burden is required.

Federalism Implications

Executive Order 13132, entitled, "Federalism," issued on August 4, 1999, requires that each agency "in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met. * * * " This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

Environmental Impact

FRA has evaluated this regulation in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National

Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. Section 4(c)(20) reads as follows:

(c) Actions Categorically Excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. * * * The following classes of FRA actions are categorically excluded:

* * * * *

(20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 2 U.S.C. 1531), each Federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of [\$120,700,000 or more (as adjusted for inflation)] in any 1 year and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. The proposed rule would not result in the expenditure, in the aggregate, of \$120,700,000 or more in any one year,

and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any "significant energy action." 66 FR 28355 (May 22, 2001). Under the Executive Order, a "significant energy action" is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this proposed rule in accordance with Executive Order 13211. FRA has determined that this proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a "significant energy action" within the meaning of Executive Order 13211.

Privacy Act

Anyone is able to search the electronic form of all our comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, FRA proposes to amend part 225, chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 225—RAILROAD ACCIDENTS/ INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS

1. The authority citation for part 225 continues 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; 49 CFR 1.49.

2. Appendix B to part 225 is amended by revising paragraphs 1, 2, 3, 4, 7, and 8 to read as follows:

Appendix B to Part 225—Procedure for Determining Reporting Threshold

1. Wage data used in the calculation are collected from railroads by the Surface Transportation Board (STB) on Form A—STB Wage Statistics. Rail equipment data from the U.S. Department of Labor, Bureau of Labor Statistics (BLS), LABSTAT Series reports are used in the calculation. The equation used to adjust the reporting threshold has two components: (a) The average hourly earnings of certain railroad maintenance employees as reported to the STB by the Class I railroads and Amtrak; and (b) an overall rail equipment cost index determined by the BLS. The wage component is weighted by 40% and the equipment component by 60%.

2. For the wage component, the average of the data from Form A—STB Wage Statistics for Group No. 300 (Maintenance of Way and Structures) and Group No. 400 (Maintenance of Equipment and Stores) employees are used.

3. For the equipment component, LABSTAT Series Report, Producer Price Index (PPI) Series WPU 144 for Railroad Equipment is used.

4. In the month of October, second-quarter wage data are obtained from the STB. For equipment costs, the corresponding BLS railroad equipment indices for the second quarter are obtained. As the equipment index is reported monthly rather than quarterly, the average for the months of April, May and June is used for the threshold calculation.

* * * * *

7. The weightings result from using STB wage data and BLS equipment cost data to produce a reasonable estimation of the previous reporting threshold, which had assumed that damage repair costs, at levels at or near the threshold, were split approximately evenly between labor and materials.

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times \frac{[1 + 0.4(W_{\text{new}} - W_{\text{prior}})]}{W_{\text{prior}} + 0.6(E_{\text{new}} - E_{\text{prior}})/100}$$

Where:

W_{new} = New average hourly wage rate (\$).
 W_{prior} = Prior average hourly wage rate (\$).
 E_{new} = New equipment average PPI value.
 E_{prior} = Prior equipment average PPI value.

Issued in Washington, DC, on April 12, 2005.

Robert D. Jamison,

Acting Administrator, Federal Railroad Administration.

[FR Doc. 05-7740 Filed 4-18-05; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 230

[Docket No. FRA 2005-20044, Notice No. 1]

RIN 2130-AB64

Inspection and Maintenance Standards for Steam Locomotives

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to correct an inadvertent, small omission from FRA Form 4 (“Boiler Specification Card”) in the Steam Locomotive Inspection and Maintenance Standards. The form is used to record information about inspections of steam locomotive boilers.

DATES: (1) *Written comments:* Written comments on this NPRM must be submitted by May 19, 2005. Comments received after the date will be considered to the extent possible without incurring additional expense or delay.

(2) *Public Hearing:* If any person desires an opportunity for oral comment, he or she must notify FRA in writing and specify the basis for the request. FRA will schedule a public hearing in connection with this proceeding if the agency receives a request for a public hearing by May 19, 2005.

ADDRESSES: You may submit comments, identified by DOT DMS Docket No. FRA 2005-20044, by any of the following methods:

Website: <http://dms.dot.gov>. Follow the submitting comments on the DOT electronic site.

Fax: (202) 493-2251.

Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://>

dms.dot.gov, including personal information provided. Please see the “Privacy Act” section under “Regulatory Impact.”

Docket: For access to the docket to read background or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: George Scerbo, Motive Power and Equipment Safety Specialist, 1120 Vermont Avenue, NW., Mail Stop 25, Washington, DC 20590, (202) 493-6249, George.Scerbo@fra.dot.gov; or Melissa L. Porter, Trial Attorney, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590, (202) 493-6034, Melissa.Porter@fra.dot.gov.

SUPPLEMENTARY INFORMATION: On November 17, 1999, FRA published a final rule revising the agency’s inspection and maintenance standards for steam locomotives (49 CFR part 230). (64 FR 62828). As part of the final rule, FRA included forms in Appendix C to part 230 that railroads operating steam locomotives are required to use in order to comply with the rule. On FRA Form 4 entitled “Boiler Specification Card,” FRA inadvertently omitted three lines in the “Calculations” section that should have been included to record the shearing stress on rivets. The omitted language is as follows:

“Shearing stress on rivets:
 Greatest shear stress on rivets in
 longitudinal seam _____ psi
 Location (course #); _____; Seam
 Efficiency _____”

FRA proposes to correct this oversight by adding the above language to Form 4. Because the purpose of Form 4 is to document for FRA the current condition of the boiler and to keep up-to-date documentation of all repairs that have been made to the boiler, this omitted language is necessary on the form so that the current condition of the boiler can be documented accurately.

Although the language was also omitted from the NPRM issued on September 25, 1998 in the proceeding that led to the 1999 final rule amendments to the steam locomotive rule, the omitted language was still intended by FRA to be on Form 4. A review of meeting minutes from the Tourist and Historic Railroads Working Group of FRA’s Railroad Safety Advisory Committee, which was tasked with developing recommendations for revising the rule, indicates that there was no substantive discussion about the specific requirements to record the