

**STATEMENT OF JOLENE M. MOLITORIS  
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BEFORE THE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

**February 27, 1996**

Good afternoon, Mr. Chairman and Members of the Committee. I am Jolene M. Molitoris, Administrator of the Federal Railroad Administration (FRA), U.S. Department of Transportation.

The tragedies of the past several weeks on our Nation's railroads have struck deeply at each and every one of us at FRA. I personally visited the accident scenes at Secaucus, New Jersey and Silver Spring, Maryland. While the destruction remains vivid for me and for those FRA inspectors assisting the National Transportation Safety Board (NTSB) in their investigation in these and the recent freight rail accidents, the images pale in comparison to the terrible losses suffered by the victims and their families. The Secretary of Transportation joins me in extending our deepest sympathies to those mourning the death of their loved ones as a result of these tragedies.

Chairman Hall on behalf of the NTSB has effectively summarized what is known about each of these accidents. Based on FRA's findings and preliminary NTSB announcements, I issued two Emergency Orders relating to safety issues involved in the accidents, the first such orders in more than five years. Using the emergency order procedures, one of FRA's most powerful authorities, I acted quickly and decisively on behalf of railroad employees and the public in order to ensure the enhanced safety of our Nation's rail system.

In my testimony this afternoon I will address directly FRA's responses to the recent

accidents in the context of our ongoing regulatory and enforcement program. I will describe our approach to safety, which we believe is essential to securing the commitment of all in the railroad industry to work together to increase safety. I will also report on our progress in meeting regulatory commitments, and on our programs to promote the use and deployment of new technology that would provide added safety benefits on our Nation's rail system.

### **Passenger Safety**

The recent commuter train accidents in Silver Spring and Secaucus have again focused sharp attention on the issue of railroad passenger safety. Four days after the Silver Spring accident, I issued an Emergency Order requiring all of the Nation's passenger railroads that operate push-pull service or self-propelled cars, to (1) adequately mark and test all emergency window exits currently required to be installed under FRA regulations; (2) require engineers to call out over the radio to another designated crew member restrictive signals which have been passed; (3) when "delayed in block," such as any stop at a station, proceed at slower speed under railroad rules prepared to stop until the next signal is visible; and (4) submit to FRA within 45 days an Interim System Safety Plan addressing safety issues related to continued operation of passenger-occupied cabcar forward or diesel or electric-motive unit service.

Yesterday I met here in Washington with the chiefs of all affected commuter agencies to discuss each element of the order and provide clarification. I am encouraged by their commitment to safety and by the consensus around safety that was achieved. Some clarification will be made to the order and will be published in the *Federal Register* this week.

With respect to equipment design and safety standards, in 1993 FRA issued a report recommending specific guidelines for passenger train evacuation and emergency preparedness

procedures. At the 1994 Rail Safety Summit, Secretary of Transportation Federico Peña committed to the issuance of basic passenger car safety equipment regulations within three years and comprehensive standards within five years. In the Federal Railroad Safety Authorization Act of 1994, Congress adopted the time frame proposed by the Secretary and mandated issuance of these regulations.

With the consensual rulemaking authority provided by Congress, FRA's passenger equipment working group has progressed rapidly despite the difficulty and complexity of the task. Based on this committee's work, I expect to issue early this spring an Advance Notice of Proposed Rulemaking (ANPRM) on passenger equipment safety standards, and shortly thereafter, proposed rules on passenger emergency evacuation and preparedness standards. Thus, we are on schedule and within the time frames prescribed by Congress in the 1994 Rail Safety Act.

### **Freight Train Safety**

In the 1992 Rail Safety Enforcement and Review Act, Congress required an extensive revision of current power brake rules, including mandating the installation, by the end of 1997, of two-way end-of-train (EOT) devices that would, in an emergency, enable braking from the rear of a train. Consistent with this law, FRA proposed rules addressing the statutory exceptions to the EOT requirement listed in the Act, as part of FRA's comprehensive proposal to rewrite current power braking standards. FRA conducted three extensive workshops on power brakes in 1993, which provided the foundation for the proposed regulations issued in 1994. Both management and labor representatives expressed strong objections. We now expect the Railroad Safety Advisory Committee, which I will discuss with you shortly, to address the power brake rulemaking on freight trains; and we have assigned the power brake rulemaking for passenger

equipment to a passenger equipment working group currently developing an ANPRM. Prior to, but consistent with an NTSB recommendation, we have also separated the two-way end-of-train device requirements from the power brake proceeding, and we have scheduled a regulatory conference on this issue for next week. An important note, Mr. Chairman: during my meeting last week with railroad chief operating officers, the major U.S. railroads agreed to install, by the end of this year, two-way EOT's on all freight trains operating over 2 percent mountain grades; this is one year ahead of the Congressional mandate. They have also committed to two-way EOT installation on all affected trains by July 1997, six months ahead of the statutory deadline.

### **Evolution of the Federal Railroad Safety Program**

In the past, individual inspections, scheduled with the help of computer risk analysis, generally guided FRA's safety program. While this process eventually yielded broader insights about developing safety trends, root causes of safety problems and system solutions on entire railroads were not developed easily through this method. In addition, railroad labor affected policy only through the traditional regulatory process, often a contentious environment that encouraged them to turn to Congress for help. Too often, FRA had to base its decisionmaking on a record that lacked facts and perspectives key parties could have provided.

As Administrator, I have worked daily to change this dynamic. In 1993 and 1994, I held ten roundtables that focused on various safety topics with rail labor, management, and other stakeholder representatives to hear firsthand what each group thought could be done better to improve safety. I soon learned that without new ways of working together, FRA could never move the regulatory process faster and more effectively.

Thus, without changing our safety approach we would not reach the safety goals that

drive us daily--zero accidents, zero injuries and zero deaths. We discovered that we must leverage our resources, identify root causes, and devise systemic solutions. With fewer than 400 safety inspectors to oversee an industry with more than 240,000 employees, 20,000 locomotives, 1.2 million freight cars, and 200,000 miles of track, we cannot rely solely on traditional site-specific inspections and enforcement if we are to reach these goals.

In 1994, I accelerated the process of inclusive involvement of all parties by establishing Technical Resolution Committees in each of FRA's five major safety disciplines. These Committees, which include labor and management representatives in the areas of track, operating practices, motive power and equipment, signal and train control, and hazardous materials, enable our inspectors to discuss complex issues of rule interpretation, rule application, and policy directly with the parties most affected by them. This open process, which enables the parties to talk directly with each other in a three-way dialogue, has streamlined the resolution of cumbersome interpretive problems because we have provided an environment where constructive problem solving can occur.

In March 1995, after assessing how to expand our success in this area, I announced a new Safety Assurance and Compliance Program, in which we would convene senior management and labor representatives at major railroads, along with FRA regional managers, in order to identify root safety issues and systemic concerns based on FRA's safety data for that railroad. The program requires railroads to address these specific concerns, and to propose a safety action plan, which must get concurrence from labor, against which we will monitor the railroad's performance.

With labor at the table, FRA's compliance program has been strengthened. FRA

inspectors will still be on each railroad, inspecting their facilities and citing violations where necessary. But by requiring a system safety plan, we can focus on the root causes of problems that may manifest as safety violations hundreds or even thousands of miles away. With a system safety plan, problems and solutions are now identified for an entire railroad instead of in sections corresponding to the eight individual FRA regions, and each of our inspectors knows more precisely what to look for. There is synergy between inspectors, making each inspection part of a whole and a far more powerful safety tool than each was individually. Consistent with President Clinton's focus on reinventing government, increased safety is our ultimate benchmark, and we will continue to adopt best practices from the public and private sectors to achieve our goals.

FRA has already visited 13 railroads to institute these safety plans, and I am confident that our ongoing efforts to open up three-way communications among rail labor, rail management and FRA will yield improved safety performance. We must get past the limiting constraints of the past, in order to invent new ways of partnering which promote meaningful communication and bolster safety performance.

### **Regulatory Reform**

Similarly, in the regulatory area, FRA instituted a process to bring parties together to discuss pending regulatory standards in meaningful and effective ways. In 1995, FRA initiated the first negotiated rulemaking in its history, addressing the need for safety standards to protect trackside workers. This process resulted in the agreement of rail labor and management on a very contentious and crucial safety issue. I expect FRA to issue proposed rules based on this agreement in the very near future. During my meeting with railroad chief operating officers last Thursday, I was pleased that, in response to my letter to them on the subject, all major railroads

agreed voluntarily to implement the proposed protections during this year's construction season as FRA's proposed rulemaking goes through the formal stages of the regulatory process. This is an indication of the type of success bringing all parties to the table can achieve.

Based on this achievement, and the progress of the passenger equipment standards working group which also utilizes a collaborative process, I have proposed establishing a Railroad Safety Advisory Committee based on this same common-sense inclusive approach to rulemaking which will develop new regulatory proposals in a number of areas. We hope to have this committee working on some of our toughest regulatory challenges very soon.

The pace of FRA's progress on Congressionally-mandated directives as well as other safety initiatives, such as the development of system safety requirements for the Northeast Corridor, will pick up. The important point is this: with over 40 regulatory initiatives now pending before the agency, the old way of doing business is no longer adequate, and the traditional process does not involve our customers early enough. Given the tremendously controversial nature of some of the pending regulatory areas, and the need to balance expected costs and benefits, the collaborative rulemaking process represents a common sense way to attack our enormous rulemaking agenda in a manner that fully involves our customers, makes the best use of FRA's limited resources, and accommodates the rapidly evolving changes in the rail transportation industry.

### **Grade Crossing Safety**

Beyond FRA's focused efforts to address railroad safety regulation and enforcement, Secretary Peña has elevated the issue of highway-rail grade crossing safety to a new level, emphasizing that this is not just a railroad issue but an overall transportation safety issue. In June

1994, the Secretary announced a 55-step Action Plan, with full involvement and close cooperation of the Department's four surface transportation agencies. The Department accelerated ongoing efforts, such as corridor system safety reviews, and launched new initiatives, such as the detail to FRA of Sergeant Donald Hatch of the California Highway Patrol in order to improve liaison with the law enforcement community. We also launched a new public awareness campaign, called *Always Expect a Train*, which we believe can achieve the same public focus on grade crossing safety that NHTSA has achieved in its efforts to prevent drunk driving and promote use of seat belts.

Additionally, following the 1995 accident at Fox River Grove, Illinois, in which seven school children were killed in a train/school bus collision, Secretary Peña chartered a task force to report next month on crossing coordination and planning issues among states, localities and railroads. I believe that Secretary Peña's commitment to this issue, and the Department's emphasis on grade crossing safety, are showing results: for 1995, based on projections from 11 months of data, our final statistics should show a 10-year low in grade-crossing fatalities, and trespassing deaths will have decreased from 529 in 1994 to about 503. Of course, each and every death is an unnecessary tragedy, and we are striving to reduce the number to zero.

#### **Implementation of an Intelligent Railroad System**

At the start of my testimony I mentioned the potential for new forms of automatic train control through the use of computers, digital communications, and satellites. FRA has a vital and active research and development program aimed at assessing the feasibility of new technologies that may directly improve safety, such as automated track strength measurement or nondestructive testing of tank cars, which I would be pleased to detail for the Committee. I

would like to focus my comments here, however, on the prospects for positive train control, or “PTC.”

The NTSB has rightly placed the nationwide implementation of automatic train control or PTC on its “Most Wanted” list, and FRA agrees with the safety potential of this new technology. Automatic train control systems, which display a signal indication in the engineer’s cab and provide an automatic capability to prevent trains from moving past indicated signals, are the safest type of signal and train control system because they can reduce the risks posed by human operator error.

In 1994, FRA submitted to Congress a comprehensive report encouraging the development of advanced forms of PTC using the latest technologies, such as digital radio-based communications and differential global positioning systems. A copy of this report is submitted for the record for the Committee’s review. In this report, FRA indicated that an important safety objective is to implement PTC on priority corridors, such as those that carry high traffic levels, passenger service, or hazardous materials. In addition, when implemented, PTC or advanced PTC could provide the rail industry with greater capacity, improved running times, greater reliability, and improved customer service. In 1994, FRA proposed an action plan and time line to promote private and public sector partnerships to foster deployment on high-density rail corridors by the year 2000.

At the time of its report, FRA did not propose mandating PTC nationwide given that safety benefits alone did not demonstrate a positive cost/benefit ratio. But because of the great potential of this technology, FRA is sponsoring, through its Next Generation high-speed rail program, three pilot initiatives in cooperation with Amtrak, the freight railroad industry, and the

states of Michigan, Illinois, Oregon, and Washington, to examine the cost-effectiveness and feasibility of new PTC approaches. Two of these projects will demonstrate high-speed operations on the Chicago-Detroit and Chicago-St. Louis corridors with test operations targeted to begin in the fourth quarter of 1996. The third project assists the application of PTC technology to enhance passenger operations, and ultimately to support high-speed service, on the Seattle-Portland corridor, in cooperation with the freight PTC test bed sponsored by Union Pacific and Burlington Northern-Santa Fe railroads .

The results of these pilot tests, along with the information about long-term train control plans of rail passenger operations requested from commuter agencies and the development of a corridor risk model to be completed this year by the Volpe National Transportation Systems Center, will provide FRA a substantial foundation for considering issues associated with deployment of PTC technology in high-priority corridors.

In summary, FRA's PTC initiatives are fully integrated with the Department's Intelligent Transportation System (ITS) program. We are working with the Federal Highway Administration in the preparation of the Highway-Rail Interface User Service specifications for ITS. In addition, four grade crossing warning technologies, referred to as Vehicle Proximity Warning Systems, which provide warning communications between trains and road vehicles, have been under evaluation at FRA's Transportation Technology Center at Pueblo, Colorado. Overall, the approach of FRA and the Department to enhancing the prospects for implementation of positive train control and intelligent railroad systems is consistent with the Clinton Administration's emphasis on deployment of new technologies to enhance transportation efficiency and safety, while at the same time considering the implications of regulatory mandates and costs.

## Conclusion

During my tenure as Administrator, FRA statistics have shown the progress of the railroad industry in improving its safety performance. Based on the projection of 11 months of data for 1995, the years 1994 and 1995 were the safest in railroad history. Train accidents (involving at least \$6,300 in damage to equipment and track) dropped from 2,504 in 1994 to 2,459 in 1995, with a corresponding drop in accidents per million train miles from 3.82 to 3.73. In 1995, there were 34 deaths of employees on duty. This is three more than that experienced in 1994; nevertheless, it amounts to the second lowest level in railroad history. These tragic deaths motivate us to redouble our efforts to eliminate fatal accidents. Finally, the number of nonfatal injuries reported in 1995 dropped to 10,832 from 13,080 in 1994. Although there were fewer hours worked by employees in 1995, the frequency of reported cases of death, injury, or occupational illness per 200,000 hours worked also declined from 5.06 in 1994 to 4.24 in 1995.

Questions continue to be raised from many quarters, however, about whether these statistics, particularly those addressing reportable incidents and employee accidents, accurately reflect the true safety performance on the properties. FRA will fully investigate allegations of railroad violations of accident/incident reporting regulations and management practices that may tend to discourage employee reporting of injuries and unsafe practices. If our investigation of these and other allegations uncovers evidence that reporting of accidents or employee injuries is being suppressed deliberately, in violation of Federal railroad safety statutes and regulations, FRA will pursue enforcement actions against those railroads and individuals to the fullest extent permitted by law.

In that vein, I assure you, Mr. Chairman, that FRA's new approach to railroad safety

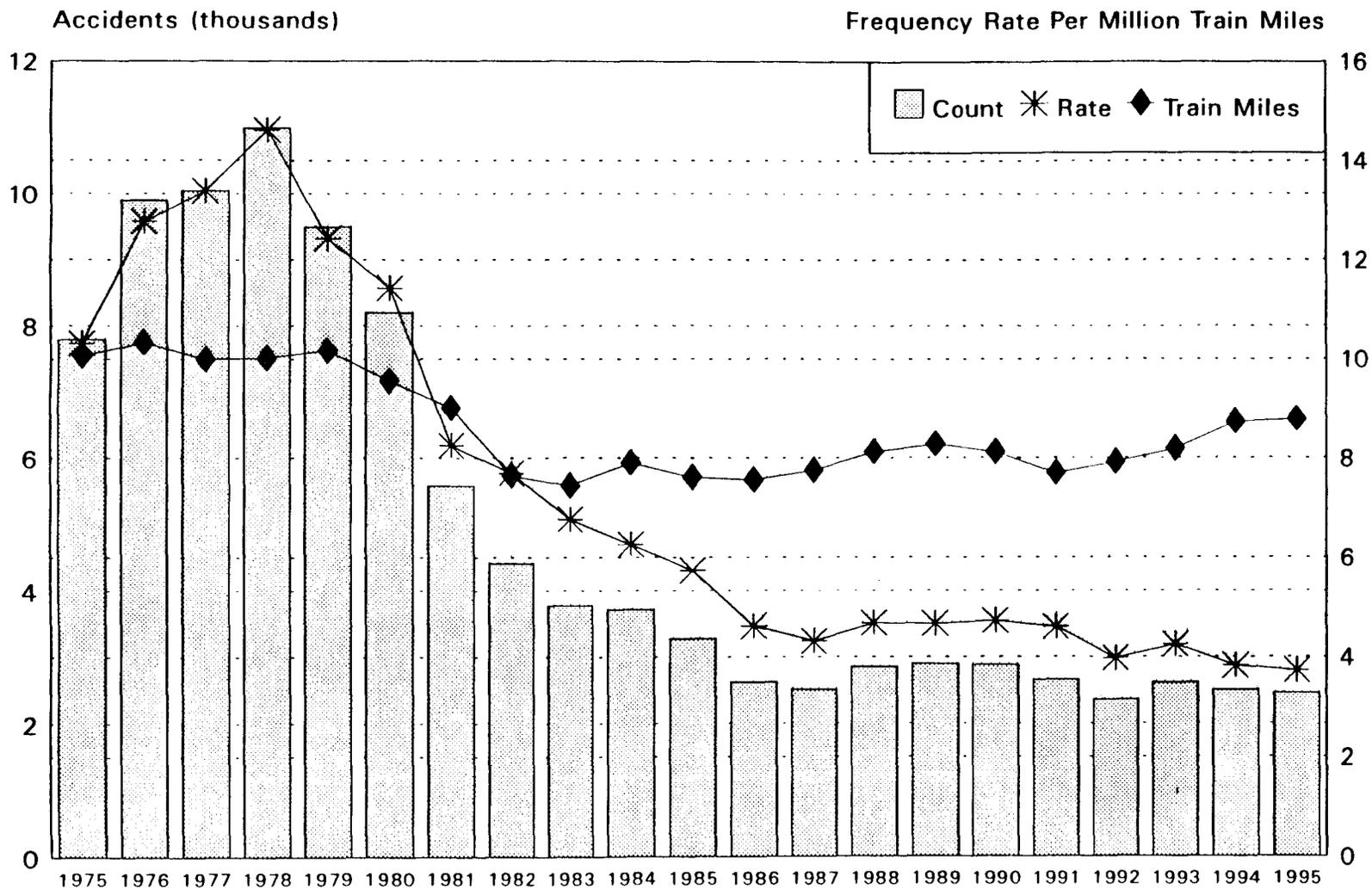
includes even tougher enforcement of the law through civil penalties than in years past. For example, we believe that the use of system safety plans will result in fewer civil penalties assessed because a railroad should be able to comply with a plan it has devised and we have approved. But, when a railroad violates its own system safety plan in a way that involves noncompliance with the safety laws, FRA will use civil penalties to enforce the law. I expect such a railroad to recognize that it has made a commitment to compliance and, therefore, to pay all of the civil penalties assessed where that commitment has not been honored. By focusing on safety outcomes, not outputs such as the gross number of violations assessed or total penalties collected, FRA believes that meaningful improvements in railroad safety can continually be achieved.

In conclusion, Mr. Chairman, I would like to stress our commitment to railroad safety, from the Secretary of Transportation to every employee at the Federal Railroad Administration. Safety is our number one goal, and our ultimate objective is zero accidents, zero injuries, and zero deaths; working together with our partners in the rail industry, we are confident that we can one day achieve this objective. In my statement, I have outlined for you the comprehensive strategy and program that we have undertaken to reach this objective, in order for you and the Committee to appreciate the full depth of FRA's commitment.

I thank you for the opportunity to testify before you today, and would be pleased to answer any questions you may have.

# TRAIN ACCIDENTS

Excludes Highway-Rail Accidents/Incidents

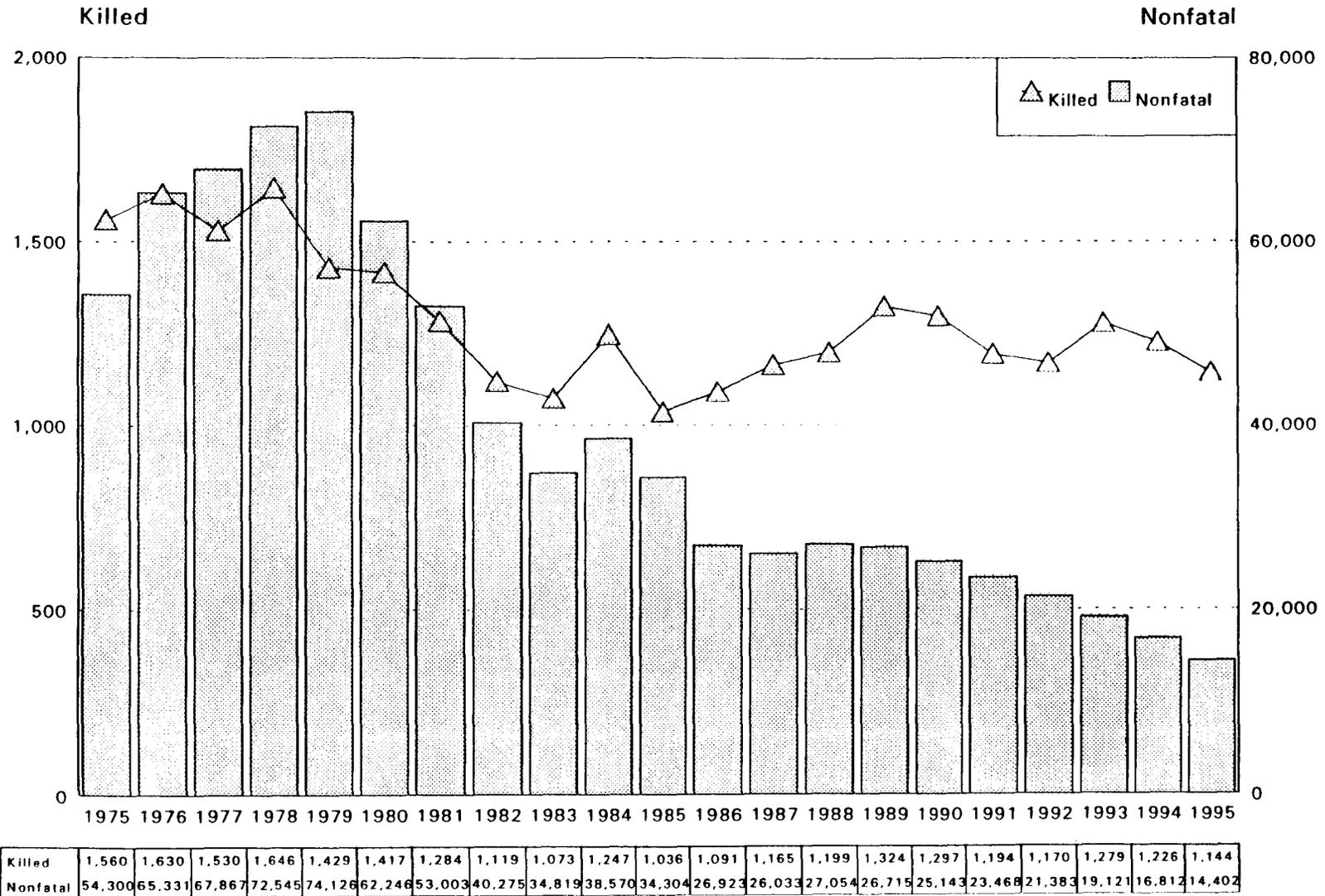


In order to obtain comparable scaling, train miles have been divided by 100,000 in this chart.

Train miles are displayed using the left axis.

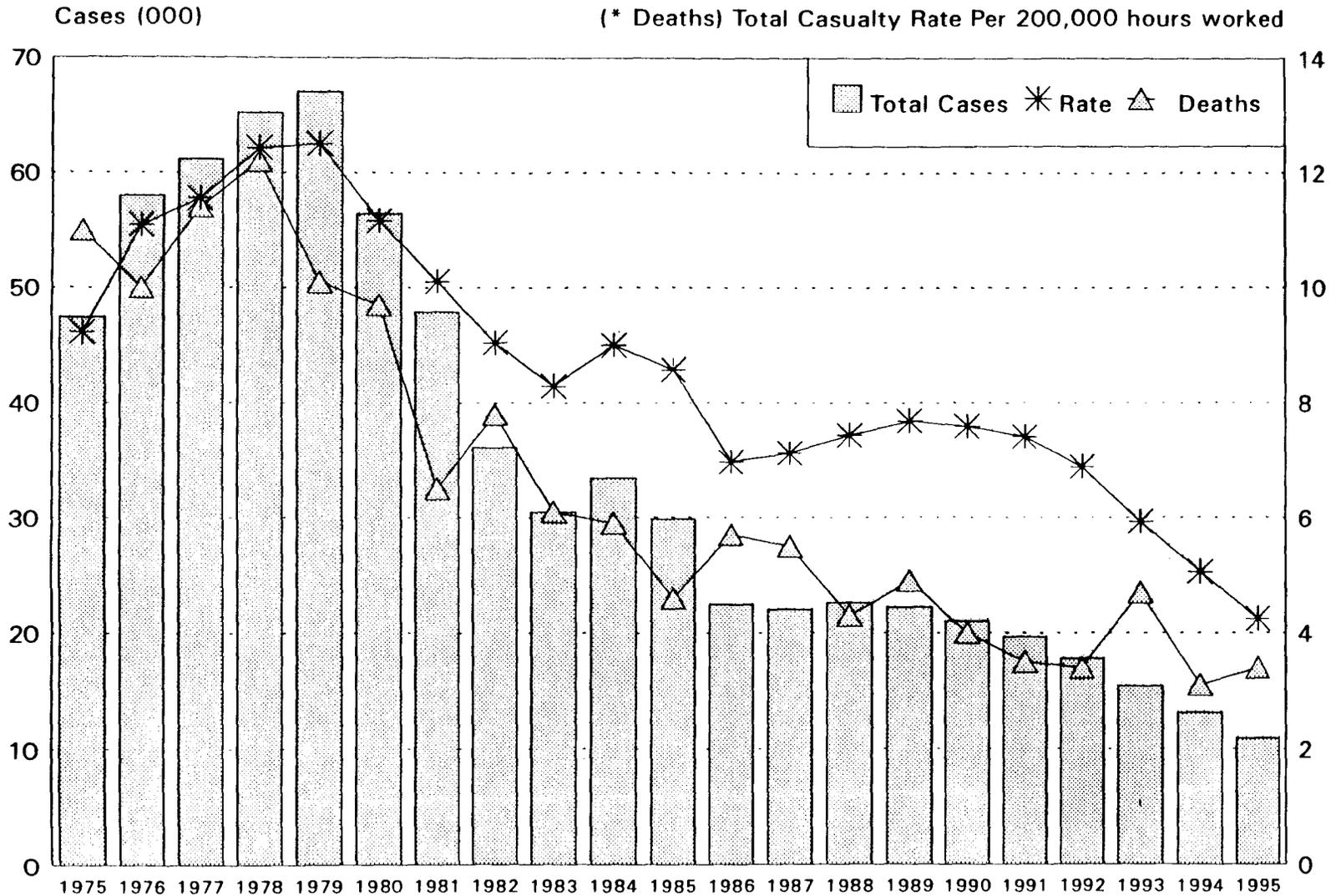
1995 counts are projections based on 11 months.

# TOTAL CASUALTIES All Accidents/Incidents



1995 c ts are projections based on 11 months.

# EMPLOYEE ON DUTY CASUALTIES



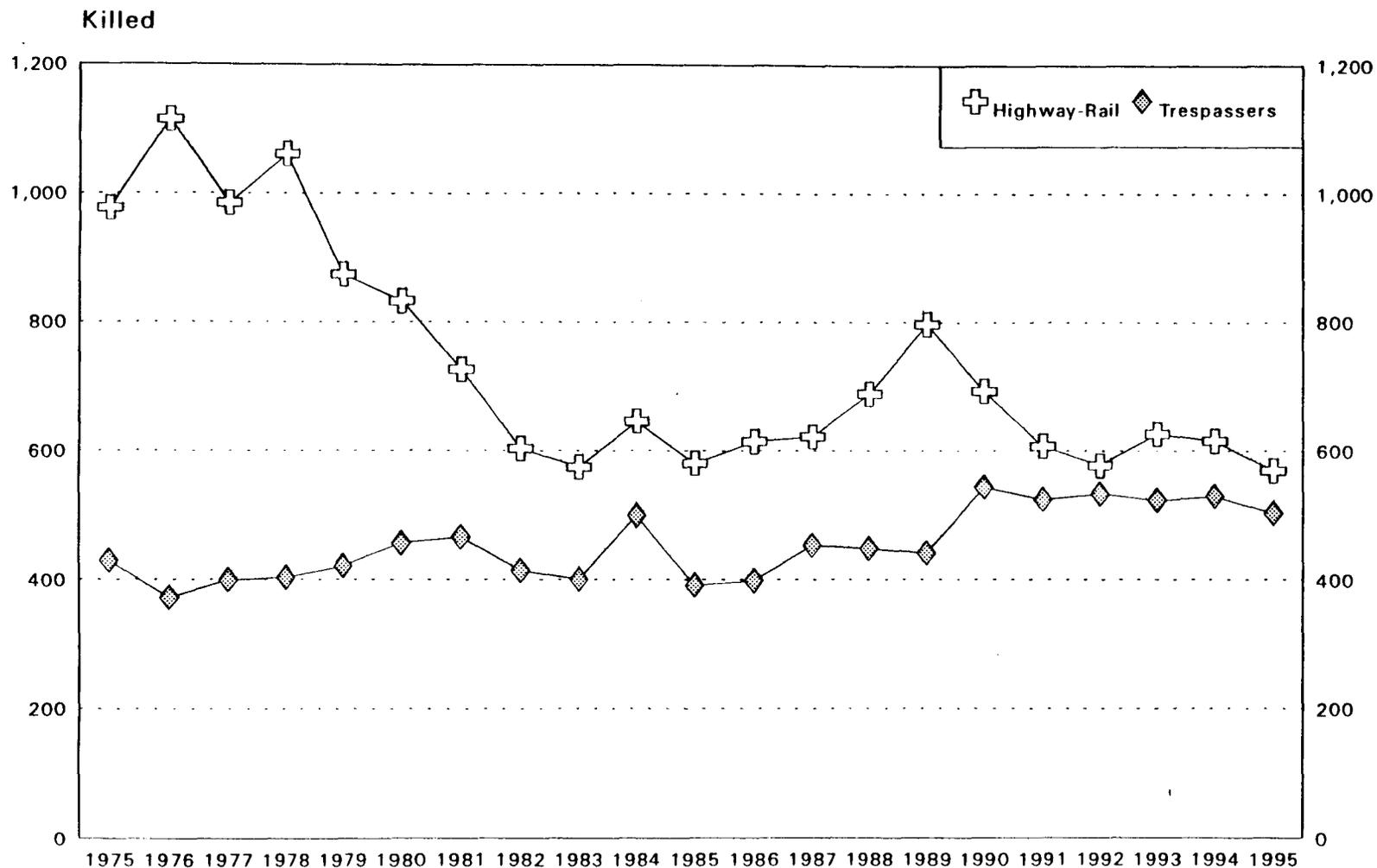
Total cases include fatalities, plus nonfatal injuries and illnesses.

\* Deaths have been divided by 10 to maintain scaling.

1995 cr ts are projections based on 11 months.

# TOTAL FATALITIES

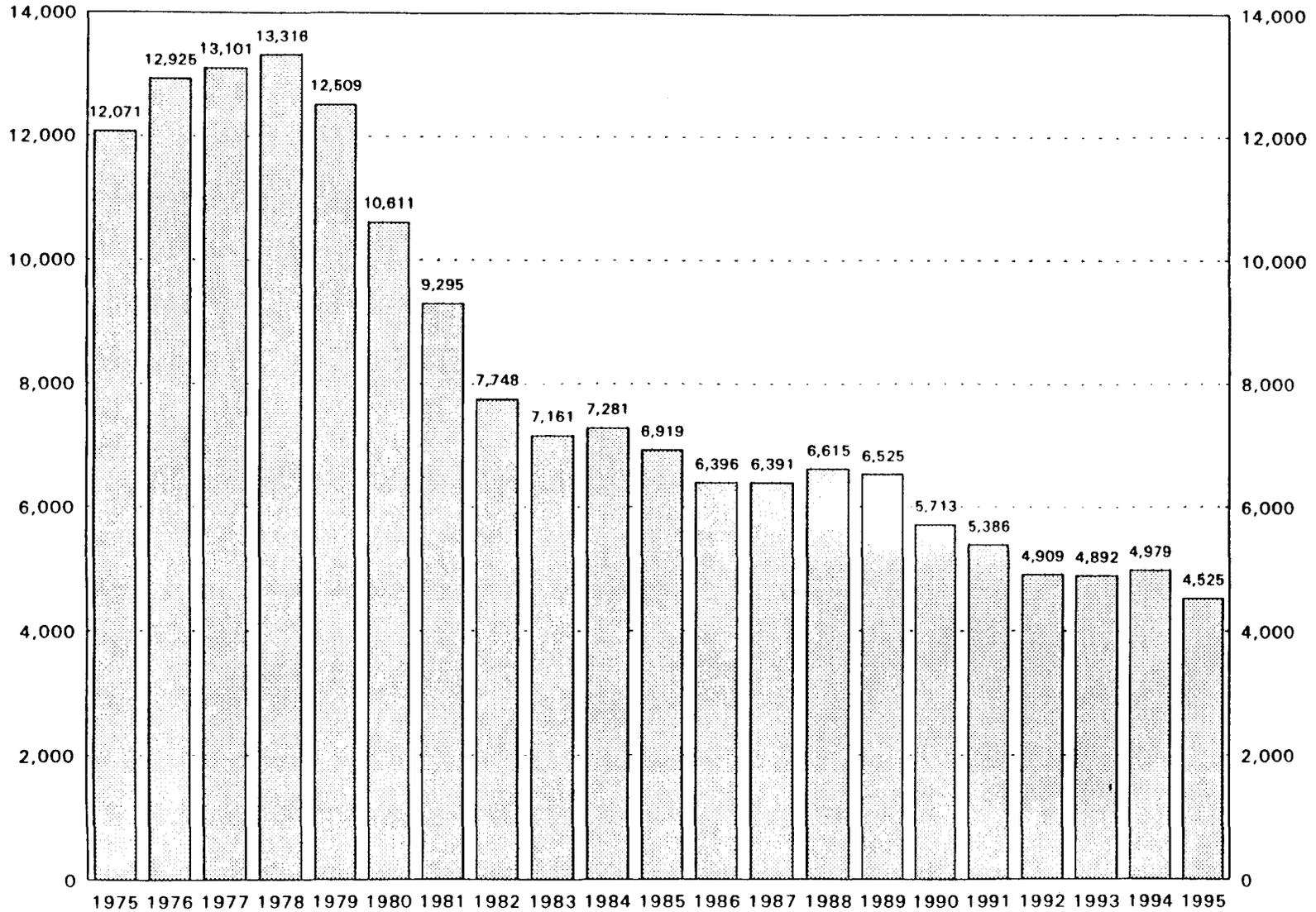
## Highway-Rail and Trespassers



|              |     |       |     |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |
|--------------|-----|-------|-----|-------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Highway-Rail | 977 | 1,115 | 985 | 1,061 | 874 | 833 | 727 | 603 | 574 | 646 | 580 | 614 | 622 | 689 | 797 | 693 | 607 | 577 | 626 | 615 | 569 |
| Trespassers  | 429 | 372   | 399 | 403   | 421 | 457 | 466 | 414 | 400 | 499 | 391 | 398 | 453 | 448 | 441 | 543 | 524 | 533 | 523 | 529 | 503 |

1995 / 1996 data are projections based on 11 months.

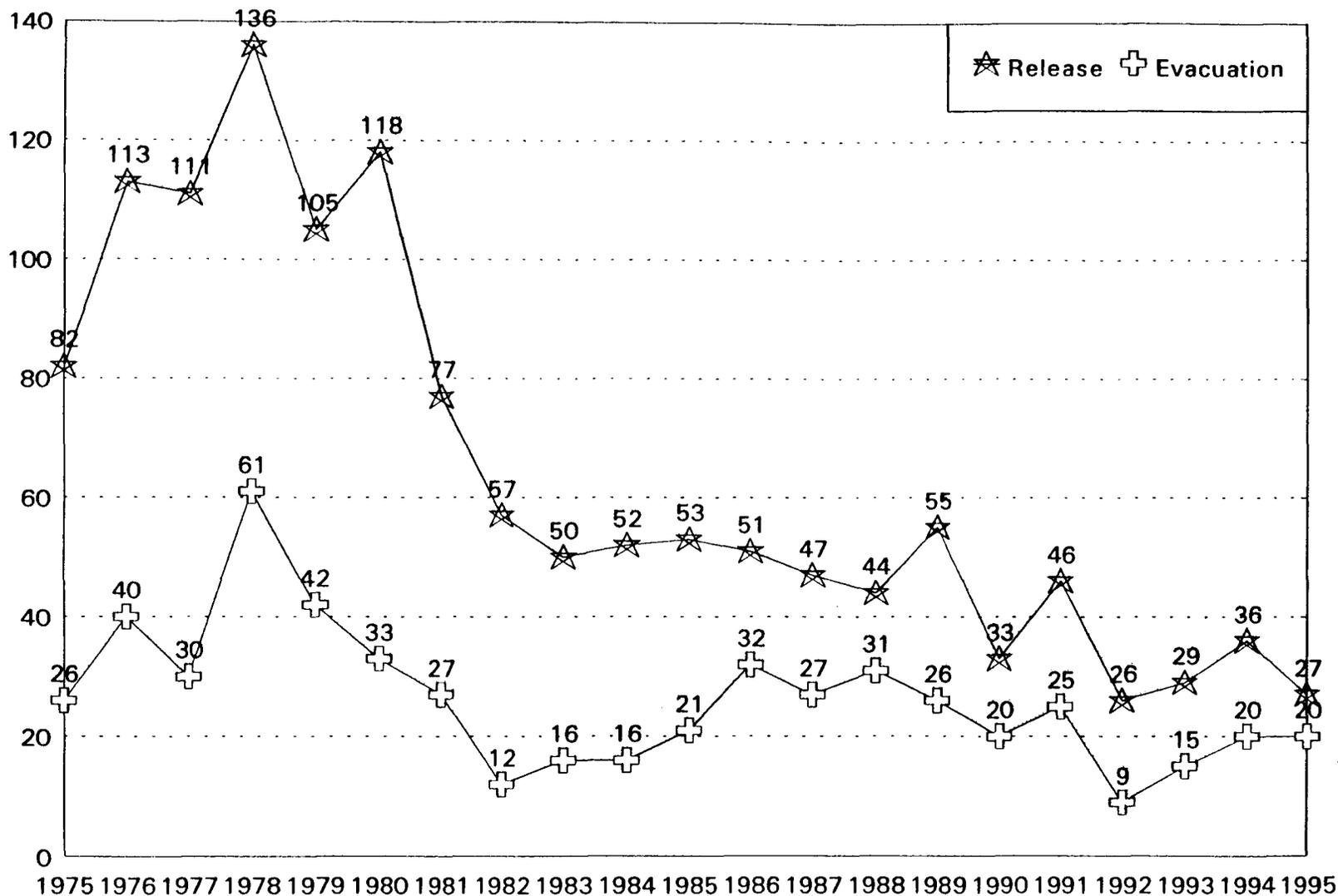
# HIGHWAY-RAIL CROSSING ACCIDENTS



1995 counts are projections based on 11 months.

Includes both public and private crossings.

# TRAIN ACCIDENTS INVOLVING HAZMAT



The number of accidents that resulted in an evacuation is a subset of accidents in which there was a release of hazardous materials. High rail accidents are excluded. The counts for 1995 are preliminary.