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of an injured employee or an employee afflicted by any other condition that may preclude drawing the specified quantity of blood.

[81 FR 37931, June 10, 2016, as amended at 87 FR 5734, Feb. 2, 2022]

§219.205 Specimen collection and handling.

(a) *General.* Urine and blood specimens must be obtained, marked, preserved, handled, and made available to FRA consistent with the requirements of this subpart and the instructions provided inside the FRA post-accident toxicological shipping kit.

(b) *Information requirements.* Basic information concerning the accident/incident and any treatment administered after the accident/incident is necessary to process specimens, analyze the significance of laboratory findings, and notify railroads and employees of test results. Accordingly, the railroad representative must complete the information required by Form FRA 6180.73 (revised) for shipping with the specimens. Each employee subject to testing must cooperate in completion of the required information on Form FRA F 6180.74 (revised) for inclusion in the shipping kit and processing of the specimens. The railroad representative must ask an appropriate representative of the medical facility to complete the remaining portion of the information on each Form 6180.74. A Form 6180.73 must be forwarded in the shipping kit with each group of specimens. A Form 6180.74 must be forwarded in the shipping kit for each employee who provides specimens. A Form 6180.73 and either a Form 6180.74 or a Form 6180.75 (for fatalities) are included in the shipping kit. (See paragraph (c) of this section.)

(c) *Shipping kits.* (1) FRA makes available for purchase a limited number of standard shipping kits for the purpose of routine handling of post-accident toxicological specimens under this subpart. Specimens must be placed in the shipping kit and prepared for shipment according to the instructions provided in the kit.

(2) Standard shipping kits may be ordered by requesting an order form from FRA's Drug and Alcohol Program Manager at 202-493-6313. In addition to the

standard kit for surviving employees, FRA also has distributed a post-mortem shipping kit to Class I, II, and commuter railroads. The post-mortem kit may not be ordered by other railroads. If a smaller railroad has a qualifying event involving a fatality to an on-duty employee, the railroad should advise the NRC at 1-800-424-8802 of the need for a post-mortem kit, and FRA will send one overnight to the medical examiner's office or assist the railroad in obtaining one from a nearby railroad.

(d) *Shipment.* Specimens must be shipped as soon as possible by pre-paid air express (or other means adequate to ensure delivery within 24 hours from time of shipment) to FRA's post-accident toxicological testing laboratory. However, if delivery cannot be ensured within 24 hours due to a suspension in air express delivery services, the specimens must be held in a secure refrigerator until delivery can be accomplished. In no circumstances may specimens be held for more than 72 hours. Where express courier pickup is available, the railroad must ask the medical facility to transfer the sealed toxicology kit directly to the express courier for transportation. If courier pickup is not available at the medical facility where the specimens are collected or if for any other reason a prompt transfer by the medical facility cannot be assured, the railroad must promptly transport the sealed shipping kit holding the specimens to the most expeditious point of shipment via air express. The railroad must maintain and document a secure chain of custody of the kit(s) from its release by the medical facility to its delivery for transportation.

(e) *Specimen security.* After a specimen kit or transportation box has been sealed, no entity other than FRA's post-accident toxicological testing laboratory may open it. If the railroad or medical facility discovers an error with either the specimens or the chain of custody form after the kit or transportation box has been sealed, the railroad or medical facility must make a contemporaneous written record of that

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error and send it to the laboratory, preferably with the transportation box.

[81 FR 37933, June 10, 2016, as amended at 87 FR 5734, Feb. 2, 2022]

§ 219.206 FRA access to breath test results.

Documentation of breath test results must be made available to FRA consistent with the requirements of this subpart.

[87 FR 5734, Feb. 2, 2022]

§ 219.207 Fatality.

(a) In the case of an employee fatality in an accident or incident described in § 219.201, body fluid and tissue specimens must be obtained from the remains of the employee for toxicological testing. To ensure that specimens are collected in a timely fashion, the railroad must immediately notify the appropriate local authority (such as a coroner or medical examiner) of the fatality and the requirements of this subpart, making available the post-mortem shipping kit and requesting the local authority to assist in obtaining the necessary body fluid or tissue specimens. The railroad must also seek the assistance of the custodian of the remains, if the custodian is someone other than the local authority.

(b) If the local authority or custodian of the remains declines to cooperate in obtaining the necessary specimens, the railroad must immediately notify the duty officer at the National Response Center (NRC) at (800) 424-8802 by providing the following information:

- (1) Date and location of the accident or incident;
- (2) Railroad;
- (3) Name of the deceased;
- (4) Name and telephone number of custodian of the remains; and
- (5) Name and telephone number of local authority contacted.

(c) A coroner, medical examiner, pathologist, or other qualified professional is authorized to remove the required body fluid and tissue specimens from the remains on request of the railroad or FRA pursuant to this part; and in so acting, such person is the delegate of the FRA Administrator under sections 20107 and 20108 of title 49, United States Code (but not the agent

of the Secretary for purposes of the Federal Tort Claims Act (chapter 71 of Title 28, United States Code). A qualified professional may rely upon the representations of the railroad or FRA representative with respect to the occurrence of the event requiring that toxicological tests be conducted and the coverage of the deceased employee under this part.

(d) The instructions included inside the shipping kits specify body fluid and tissue specimens required for toxicological analysis in the case of a fatality.

[66 FR 41973, Aug. 9, 2001, as amended at 81 FR 37933, June 10, 2016; 87 FR 5734, Feb. 2, 2022]

§ 219.209 Reports of tests and refusals.

(a)(1) A railroad that has experienced one or more events for which specimens were obtained must provide prompt telephonic notification summarizing such events. Notification must immediately be provided to the duty officer at the National Response Center (NRC) at (800) 424-8802 and to the Office of Safety, FRA, at (202) 493-6313.

(2) Each telephonic report must contain:

- (i) Name of railroad;
- (ii) Name, title and telephone number of person making the report;
- (iii) Time, date and location of the accident/incident;
- (iv) Brief summary of the circumstances of the accident/incident, including basis for testing (*e.g.*, impact accident with a reportable injury); and
- (v) Number of employees tested.

(b) If a railroad is unable, as a result of non-cooperation of an employee or for any other reason, to obtain a specimen and provide it to FRA as required by this subpart, the railroad must immediately notify the FRA Drug and Alcohol Program Manager at 202-493-6313 and provide detailed information regarding the failure (either verbally or via a voicemail). The railroad must also provide a concise narrative written report of the reason for such failure and, if appropriate, any action taken in response to the cause of such failure. This report must be appended to the report of the accident/incident required to be submitted under part 225 of this chapter and must also be mailed to the