

## § 219.209

(d) Appendix C to this part specifies body fluid and tissue specimens required for toxicological analysis in the case of a fatality.

### § 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; and
- (v) Number, names and occupations of employees tested.

(b) If the railroad is unable, as a result of non-cooperation of an employee or for any other reason, to obtain a specimen and cause it to be provided to FRA as required by this subpart, the railroad must make a concise narrative 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.

(c) If a test required by this section is not administered within four hours following the accident or incident, the railroad must prepare and maintain on file a record stating the reasons the test was not promptly administered. Records must be submitted to FRA upon request of the FRA Associate Administrator for Safety.

### § 219.211 Analysis and follow-up.

(a) The laboratory designated in Appendix B to this part undertakes prompt analysis of specimens provided under this subpart, consistent with the need to develop all relevant information and produce a complete report. Specimens are analyzed for alcohol and controlled substances specified by FRA

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under protocols specified by FRA, summarized in Appendix C to this part, which have been submitted to Health and Human Services for acceptance. Specimens may be analyzed for other impairing substances specified by FRA as necessary to the particular accident investigation.

(b) Results of post-accident toxicological testing under this subpart are reported to the railroad's Medical Review Officer and the employee. The MRO and the railroad must treat the test results and any information concerning medical use or administration of drugs provided under this subpart in the same confidential manner as if subject to subpart H of this part, except where publicly disclosed by FRA or the National Transportation Safety Board.

(c) With respect to a surviving employee, a test reported as positive for alcohol or a controlled substance by the designated laboratory must be reviewed by the railroad's Medical Review Officer with respect to any claim of use or administration of medications (consistent with § 219.103) that could account for the laboratory findings. The Medical Review Officer must promptly report the results of each review to the Associate Administrator for Safety, FRA, Washington, DC 20590. Such report must be in writing and must reference the employing railroad, accident/incident date, and location, and the envelope must be marked "ADMINISTRATIVELY CONFIDENTIAL: ATTENTION ALCOHOL/DRUG PROGRAM MANAGER." The report must state whether the MRO reported the test result to the employing railroad as positive or negative and the basis of any determination that analytes detected by the laboratory derived from authorized use (including a statement of the compound prescribed, dosage/frequency, and any restrictions imposed by the authorized medical practitioner). Unless specifically requested by FRA in writing, the Medical Review Officer may not disclose to FRA the underlying physical condition for which any medication was authorized or administered. The FRA is not bound by the railroad Medical Review Officer's determination, but that determination will be considered by FRA in