

## § 345.124

of interest as provided for in § 345.122(b) of this part.

(c) *Penalty on net amount.* For the purpose of paragraph (a) of this section the amount of contribution required to be shown on Form DC-1 shall be reduced by the amount of any part of the contribution that is paid on or before the date prescribed for the payment of the contribution and by the amount of any credit against the contribution that may be claimed upon the DC-1.

(d) *False reports.* If a fraudulent contribution report is made, a penalty equal to 50 percent of the amount of any underpayment shall be imposed on the employer.

### § 345.124 Right to appeal.

(a) Except as otherwise provided, an employer may seek administrative review of any determination with respect to any contribution, interest, or penalty made under this part by filing a request for reconsideration with the Chief Financial Officer within 30 days after the mailing of notice of such determination. An employer shall have a right to appeal to the Board from any reconsideration decision under this section by filing notice of appeal to the Secretary to the Board within 14 days after the mailing of the decision on reconsideration. Upon receipt of a notice of an appeal the Board may designate one of its officers or employees to receive evidence and report to the Board under the procedures set forth in part 319 of this chapter.

(b) *Request for reconsideration.* Any appeal filed under this part shall not relieve the employer from filing any reports or paying any contribution required under this part nor stay the collection thereof. Upon the request of an employer, the Board may relieve the employer of any obligation required under this part pending an appeal. Unless specifically provided by the Board, such relief shall not stay the accrual of interest on any disputed amount as provided for in § 345.122 of this part.

### § 345.125 Records.

Every employer subject to the payment of contributions for any calendar quarter shall, with respect to each such quarter, keep such permanent records as are necessary to establish the total

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amount of compensation payable to its employees, for a period of at least five calendar years after the date the contribution report to which the compensation relates was required to be filed, or the date the contribution is paid, whichever is later. The record should be in such form as to contain the information required to be shown on the quarterly contribution report. All records required by the regulations in this part shall be kept at a safe and convenient location accessible to inspection by the Board or any of its officers or employees, or by the Inspector General of the Railroad Retirement Board. Such records shall be at all times open for inspection by such officers or employees.

(Approved by the Office of Management and Budget under control number 3220-0012)

### § 345.126 Liens.

If any employer, after demand, neglects or refuses to pay a contribution required under this part, the amount of such contribution (including any interest, penalties, additional amount, or additions to such contribution, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such employer.

## Subpart C—Individual Employer Records

### § 345.201 Individual employer record defined.

Effective January 1, 1990, the Board will establish and maintain a record, hereinafter known as an Individual Employer Record, for each employer subject to this part. As used in this subpart, “Individual Employer Record” means a record of each employer’s benefit ratio; reserve ratio; 1-year compensation base; 3-year compensation base; unallocated charge; reserve balance; net cumulative contribution balance; and cumulative benefit balance. See § 345.302 of this part for a definition of these terms. Whenever a new employer begins paying compensation with respect to which contributions are payable under this part, the Board will

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establish and maintain an individual employer record for such employer.

### § 345.202 Consolidated employer records.

(a) *Establishing a consolidated employer record.* Two or more employers that are under common ownership or control may request the Board to consolidate their individual employer records into a joint individual employer record. Such joint individual employer record shall be treated as though it were a single employer record. A request for such consolidation shall be made to the Director of Unemployment and Sickness Insurance, and such consolidation shall be effective commencing with the calendar year following the year of the request.

(b) *Discontinuance of a consolidated employer record.* Two or more employers that have established and maintained a consolidated employer record will be permitted to discontinue such consolidated record only if the individual employers agree to an allocation of the consolidated employer record and such allocation is approved by the Director of Unemployment and Sickness Insurance.

### § 345.203 Merger or combination of employers.

In the event of a merger or combination of two or more employers, or an employer and non-employer, the individual employer record of the employer surviving the merger (or any person that becomes an employer as the result of the merger or combination) shall consist of the combination of the individual employer records of the entities participating in the merger.

### § 345.204 Sale or transfer of assets.

(a) In the event property of an employer is sold or transferred to another employer (or to a person that becomes an employer as the result of the sale or transfer) or is partitioned among two or more employers or persons, the individual employer record of such employer shall be prorated among the employer or employers that receive the property (including any person that becomes an employer by reason of such transaction or partition), in accordance with any agreement among the

respective parties (including an agreement that there shall be no proration of the employer record). Such agreement shall be subject to the approval of the Board.

(b) There shall be no transfer of the employer record where an employer abandons a line of track in accordance with the provisions of the Interstate Commerce Act and the applicable regulations thereunder, and a new entity, found by the Board to be an "employer" under part 301 of this chapter, is formed to operate or continue service over such line; the Board will assign to such entity a new-employer contribution rate in accordance with section 8(a)(1)(D) of the RUIA and § 345.304 of this part.

### § 345.205 Reincorporation.

The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification will attach to the reincorporated or altered identity.

### § 345.206 Abandonment.

If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subpart without retroactive adjustment.

### § 345.207 Defunct employer.

If the Board determines that an employer has permanently ceased to pay compensation with respect to which contributions are payable under this part, the Board will, on the date of such determination, transfer the employer's net cumulative contribution balance as a subtraction from, and the cumulative benefit balance as an addition to, the system unallocated charge balance and will cancel all other accumulations of the employer. The Board's determination that an employer is defunct will be based on evidence indicating that the employer has ceased all operations as an employer and has terminated its status as an employer. In making its determination, the Board