

www.dot.gov/ost/dapc). ODAPC will notify HHS who will take appropriate action.

**§ 40.107 Who may inspect laboratories?**

As a laboratory, you must permit an inspection, with or without prior notice, by ODAPC, a DOT agency, or a DOT-regulated employer that contracts with the laboratory for drug testing under the DOT drug testing program, or the designee of such an employer.

**§ 40.109 What documentation must the laboratory keep, and for how long?**

(a) As a laboratory, you must retain all records pertaining to each employee urine specimen for a minimum of two years.

(b) As a laboratory, you must also keep for two years employer-specific data required in § 40.111.

(c) Within the two-year period, the MRO, the employee, the employer, or a DOT agency may request in writing that you retain the records for an additional period of time (*e.g.*, for the purpose of preserving evidence for litigation or a safety investigation). If you receive such a request, you must comply with it. If you do not receive such a request, you may discard the records at the end of the two-year period.

**§ 40.111 When and how must a laboratory disclose statistical summaries and other information it maintains?**

(a) As a laboratory, you must transmit an aggregate statistical summary, by employer, of the data listed in Appendix B to this part to the employer on a semi-annual basis.

(1) The summary must not reveal the identity of any employee.

(2) In order to avoid sending data from which it is likely that information about an employee's test result can be readily inferred, you must not send a summary if the employer has fewer than five aggregate tests results.

(3) The summary must be sent by January 20 of each year for July 1 through December 31 of the prior year.

(4) The summary must also be sent by July 20 of each year for January 1 through June 30 of the current year.

(b) When the employer requests a summary in response to an inspection,

audit, or review by a DOT agency, you must provide it unless the employer had fewer than five aggregate test results. In that case, you must send the employer a report indicating that not enough testing was conducted to warrant a summary. You may transmit the summary or report by hard copy, fax, or other electronic means.

(c) You must also release information to appropriate parties as provided in §§ 40.329 and 40.331.

**§ 40.113 Where is other information concerning laboratories found in this regulation?**

You can find more information concerning laboratories in several sections of this part:

§ 40.3—Definition.

§ 40.13—Prohibition on making specimens available for other purposes.

§ 40.31—Conflicts of interest concerning collectors.

§ 40.47—Laboratory rejections of test for improper form.

§ 40.125—Conflicts of interest concerning MROs.

§ 40.175—Role of first laboratory in split specimen tests.

§ 40.177—Role of second laboratory in split specimen tests (drugs).

§ 40.179—Role of second laboratory in split specimen tests (adulterants).

§ 40.181—Role of second laboratory in split specimen tests (substitution).

§§ 40.183–40.185—Transmission of split specimen test results to MRO.

§§ 40.201–40.205—Role in correcting errors.

§ 40.329—Release of information to employees.

§ 40.331—Limits on release of information.

§ 40.355—Role with respect to other service agents.

**Subpart G—Medical Review Officers and the Verification Process**

**§ 40.121 Who is qualified to act as an MRO?**

To be qualified to act as an MRO in the DOT drug testing program, you must meet each of the requirements of this section:

(a) *Credentials.* You must be a licensed physician (Doctor of Medicine or Osteopathy). If you are a licensed physician in any U.S., Canadian, or Mexican jurisdiction and meet the other requirements of this section, you