specific adulterant using appropriate confirmatory validity test(s).

(5) Substituted blind specimens must be certified for creatinine concentration and specific gravity to satisfy the criteria for a substituted specimen using confirmatory creatinine and specific gravity tests, respectively.

(d) You must ensure that each blind specimen is indistinguishable to the laboratory from a normal specimen.

(1) You must submit blind specimens to the laboratory using the same channels (*e.g.*, via a regular collection site) through which employees' specimens are sent to the laboratory.

(2) You must ensure that the collector uses a CCF, places fictional initials on the specimen bottle label/seal, indicates for the MRO on Copy 2 that the specimen is a blind specimen, and discards Copies 4 and 5 (employer and employee copies).

(3) You must ensure that all blind specimens include split specimens.

[65 FR 79526, Dec. 19, 2000, as amended at 73 FR 35971, June 25, 2008]

§ 40.105 What happens if the laboratory reports a result different from that expected for a blind specimen?

(a) If you are an employer, MRO, or C/TPA who submits a blind specimen, and if the result reported to the MRO is different from the result expected, you must investigate the discrepancy.

(b) If the unexpected result is a false negative, you must provide the laboratory with the expected results (obtained from the supplier of the blind specimen), and direct the laboratory to determine the reason for the discrepancy.

(c) If the unexpected result is a false positive, adulterated, or substituted result, you must provide the laboratory with the expected results (obtained from the supplier of the blind specimen), and direct the laboratory to determine the reason for the discrepancy. You must also notify ODAPC of the discrepancy by telephone (202–366–3784) or e-mail (addresses are listed on the ODAPC Web site, *http://www.dot.gov/ost/dapc*). ODAPC will notify HHS who will take appropriate action.

[65 FR 79526, Dec. 19, 2000, as amended at 73 FR 35971, June 25, 2008]

§ 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