

#### § 40.14

such a test do not have consequences under this part.

(f) No one is permitted to change or disregard the results of DOT tests based on the results of non-DOT tests. For example, as an employer you must not disregard a verified positive DOT drug test result because the employee presents a negative test result from a blood or urine specimen collected by the employee's physician or a DNA test result purporting to question the identity of the DOT specimen.

(g) As an employer, you must not use the CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests.

(h) No one is permitted to conduct a DOT drug or alcohol test on an individual who is not a DOT-regulated employee, as defined by the DOT agency regulations.

[65 FR 79526, Dec. 19, 2000, as amended at 88 FR 27637, May 2, 2023]

#### § 40.14 What collection information must employers provide to collectors?

As an employer, or an employer's service agent—for example a C/TPA, you must ensure the collector has the following information when conducting a specimen collection for you:

(a) Full name of the employee being tested.

(b) SSN or Employee ID No.

(c) Laboratory name and address (can be pre-printed on the CCF).

(d) Employer name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-A).

(e) DER information required at § 40.36.

(f) MRO name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-B).

(g) The DOT Agency which regulates the employee's safety-sensitive duties (the checkmark can pre-printed in the appropriate box on the CCF at Step 1-D).

(h) Test reason, as appropriate: Pre-employment; Random; Reasonable Sus-

#### 49 CFR Subtitle A (10–1–24 Edition)

picion/Reasonable Cause; Post-Accident; Return-to-Duty; and Follow-up.

(i) Whether the test is to be observed or not (see § 40.67 of this part).

(j) (Optional) C/TPA name, address, phone, and fax number (can be pre-printed on the CCF).

(k) Specimen type to be collected (*i.e.*, oral fluid or urine).

[75 FR 59107, Sept. 27, 2010, as amended at 88 FR 27637, May 2, 2023; 89 FR 51983, June 21, 2024]

#### § 40.15 May an employer use a service agent to meet DOT drug and alcohol testing requirements?

(a) As an employer, you may use a service agent to perform the tasks needed to comply with this part and DOT agency drug and alcohol testing regulations, consistent with the requirements of Subpart Q and other applicable provisions of this part.

(b) As an employer, you are responsible for ensuring that the service agents you use meet the qualifications set forth in this part (*e.g.*, § 40.121 for MROs). You may require service agents to show you documentation that they meet the requirements of this part (*e.g.*, documentation of MRO qualifications required by § 40.121(e)).

(c) You remain responsible for compliance with all applicable requirements of this part and other DOT drug and alcohol testing regulations, even when you use a service agent. If you violate this part or other DOT drug and alcohol testing regulations because a service agent has not provided services as our rules require, a DOT agency can subject you to sanctions. Your good faith use of a service agent is not a defense in an enforcement action initiated by a DOT agency in which your alleged noncompliance with this part or a DOT agency drug and alcohol regulation may have resulted from the service agent's conduct.

(d) As an employer, you must not permit a service agent to act as your DER.

#### § 40.17 Is an employer responsible for obtaining information from its service agents?

Yes, as an employer, you are responsible for obtaining information required by this part from your service