

may require that all records maintained by the service agent for the employer must be produced at the employer's place of business.

(c) *Release of drug testing information.* An employer shall release information regarding an employee's drug testing results, evaluation, or rehabilitation to a third party in accordance with 49 CFR part 40. Except as required by law, this subpart, or 49 CFR part 40, no employer shall release employee information.

(d) *Refusal to submit to testing.* Each employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to a drug test required under this subpart. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591, or by fax to (202) 267-5200.

(e) *Permanent disqualification from service.* (1) An employee who has verified positive drug test results on two drug tests required by this subpart of this chapter, and conducted after September 19, 1994, is permanently precluded from performing for an employer the safety-sensitive duties the employee performed prior to the second drug test.

(2) An employee who has engaged in prohibited drug use during the performance of a safety-sensitive function after September 19, 1994 is permanently precluded from performing that safety-sensitive function for an employer.

(f) *DOT management information system annual reports.* Copies of any annual reports submitted to the FAA under this subpart must be maintained by the employer for a minimum of 5 years.

§ 120.113 Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities.

(a) The employer shall designate or appoint a Medical Review Officer (MRO) who shall be qualified in accordance with 49 CFR part 40 and shall perform the functions set forth in 49 CFR part 40 and this subpart. If the employer does not have a qualified indi-

vidual on staff to serve as MRO, the employer may contract for the provision of MRO services as part of its drug testing program.

(b) *Medical Review Officer (MRO).* The MRO must perform the functions set forth in subpart G of 49 CFR part 40, and subpart E of this part. The MRO shall not delay verification of the primary test result following a request for a split specimen test unless such delay is based on reasons other than the fact that the split specimen test result is pending. If the primary test result is verified as positive, actions required under this rule (e.g., notification to the Federal Air Surgeon, removal from safety-sensitive position) are not stayed during the 72-hour request period or pending receipt of the split specimen test result.

(c) *Substance Abuse Professional (SAP).* The SAP must perform the functions set forth in 49 CFR part 40, subpart O.

(d) *Additional Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities Regarding 14 CFR part 67 Airman Medical Certificate Holders.* (1) As part of verifying a confirmed positive test result or refusal to submit to a test, the MRO must ask and the individual must answer whether he or she holds an airman medical certificate issued under 14 CFR part 67 or would be required to hold an airman medical certificate to perform a safety-sensitive function for the employer. If the individual answers in the affirmative to either question, in addition to notifying the employer in accordance with 49 CFR part 40, the MRO must forward to the Federal Air Surgeon, at the address listed in paragraph (d)(5) of this section, the name of the individual, along with identifying information and supporting documentation, within 2 working days after verifying a positive drug test result or refusal to submit to a test.

(2) During the SAP interview required for a verified positive test result or a refusal to submit to a test, the SAP must ask and the individual must answer whether he or she holds or would be required to hold an airman medical certificate issued under 14 CFR part 67 to perform a safety-sensitive function for the employer. If the individual answers in the affirmative, the