the CCF and enter ''Invalid Result'' and ''direct observation collection required'' on the ''Remarks'' line.

(ii) Report to the DER that the test is cancelled, the reason for cancellation, and that a second collection must take place immediately under direct observation.

(iii) Instruct the employer to ensure that the employee has the minimum possible advance notice that he or she must go to the collection site.

(b) You may only report an invalid test result when you are in possession of a legible copy of Copy 1 of the CCF. In addition, you must have Copy 2 of the CCF, a legible copy of it, or any other copy of the CCF containing the employee's signature.

(c) If the employee admits to having adulterated or substituted the specimen, you must, on the same day, write and sign your own statement of what the employee told you. You must then report a refusal to test in accordance with §40.163 .

§40.161 What does the MRO do when a drug test specimen is rejected for testing?

As the MRO, when the laboratory reports that the specimen is rejected for testing (*e.g.*, because of a fatal or uncorrected flaw), you must do the following:

(a) Place a check mark in the ''Test Cancelled'' box (Step 6) on Copy 2 of the CCF and enter the reason on the ''Remarks'' line.

(b) Report to the DER that the test is cancelled and the reason for cancellation, and that no further action is required unless a negative test is required (*e.g.*, in the case of a pre-employment, return-to-duty, or follow-up test).

(c) You may only report a test cancelled because of a rejected for testing test result when you are in possession of a legible copy of Copy 1 of the CCF. In addition, you must have Copy 2 of the CCF, a legible copy of it, or any other copy of the CCF containing the employee's signature.

§40.163 How does the MRO report drug test results?

(a) As the MRO, it is your responsibility to report all drug test results to the employer.

(b) You may use a signed or stamped and dated legible photocopy of Copy 2 of the CCF to report test results.

(c) If you do not report test results using Copy 2 of the CCF for this purpose, you must provide a written report (e.g., a letter) for each test result. This report must, as a minimum, include the following information:

(1) Full name, as indicated on the CCF, of the employee tested;

(2) Specimen ID number from the CCF and the donor SSN or employee ID number;

(3) Reason for the test, if indicated on the CCF (e.g., random, post-accident);

(4) Date of the collection;

(5) Date you received Copy 2 of the CCF;

(6) Result of the test (i.e., positive, negative, dilute, refusal to test, test cancelled) and the date the result was verified by the MRO;

(7) For verified positive tests, the drug(s)/metabolite(s) for which the test was positive;

(8) For cancelled tests, the reason for cancellation; and

(9) For refusals to test, the reason for the refusal determination (e.g., in the case of an adulterated test result, the name of the adulterant).

(d) As an exception to the reporting requirements of paragraph (b) and (c) of this section, the MRO may report negative results using an electronic data file.

(1) If you report negatives using an electronic data file, the report must contain, as a minimum, the information specified in paragraph (c) of this section, as applicable for negative test results.

(2) In addition, the report must contain your name, address, and phone number, the name of any person other than you reporting the results, and the date the electronic results report is released.

(e) You must retain a signed or stamped and dated copy of Copy 2 of the CCF in your records. If you do not use Copy 2 for reporting results, you

must maintain a copy of the signed or stamped and dated letter in addition to the signed or stamped and dated Copy 2. If you use the electronic data file to report negatives, you must maintain a retrievable copy of that report in a format suitable for inspection and auditing by a DOT representative.

(f) You must not use Copy 1 of the CCF to report drug test results.

(g) You must not provide quantitative values to the DER or C/TPA for drug or validity test results. However, you must provide the test information in your possession to a SAP who consults with you (see § 40.293(g)).

[66 FR 41952, Aug. 9, 2001]

§ 40.165 To whom does the MRO transmit reports of drug test results?

(a) As the MRO, you must report all drug test results to the DER, except in the circumstances provided for in § 40.345 .

(b) If the employer elects to receive reports of results through a C/TPA, acting as an intermediary as provided in § 40.345 , you must report the results through the designated C/TPA.

§ 40.167 How are MRO reports of drug results transmitted to the employer?

As the MRO or C/TPA who transmits drug test results to the employer, you must comply with the following requirements:

(a) You must report the results in a confidential manner.

(b) You must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test.

(1) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see § 40.163).

(2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification.

(3) The MRO's report that you transmit to the employer must contain all of the information required by § 40.163 .

(c) You must transmit the MRO's report(s) of verified tests to the DER so that the DER receives it within two days of verification by the MRO.

(1) You must fax, courier, mail, or electronically transmit a legible image or copy of either the signed or stamped and dated Copy 2 or the written report (see § 40.163(b) and (c)).

(2) Negative results reported electronically (i.e., computer data file) do not require an image of Copy 2 or the written report.

(d) In transmitting test results, you or the C/TPA and the employer must ensure the security of the transmission and limit access to any transmission, storage, or retrieval systems.

(e) MRO reports are not subject to modification or change by anyone other than the MRO, as provided in § 40.149(c).

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41953, Aug. 9, 2001]

§ 40.169 Where is other information concerning the role of MROs and the verification process found in this regulation?

You can find more information concerning the role of MROs in several sections of this part:

§ 40.3—Definition.
§§ 40.47–40.49—Correction of form and kit errors.
§ 40.67—Role in direct observation and other atypical test situations.
§ 40.83—Laboratory handling of fatal and correctable flaws.
§ 40.97—Laboratory handling of test results and quantitative values.
§ 40.99—Authorization of longer laboratory retention of specimens.
§ 40.101—Relationship with laboratories; avoidance of conflicts of interest.
§ 40.105—Notification of discrepancies in blind specimen results.
§ 40.171—Request for test of split specimen.
§ 40.187—Action concerning split specimen test results.
§ 40.193—Role in ''shy bladder'' situations.
§ 40.195—Role in cancelling tests.
§§ 40.199–40.203—Documenting errors in tests.
§ 40.327—Confidentiality and release of information.
§ 40.347—Transfer of records.
§ 40.353—Relationships with service agents.