

**QUESTION:**

Can someone other than the employee direct that an MRO have the employee's split specimen tested?

**ANSWER:**

- No. Because the split specimen exists to provide the employee with “due process” in the event that he or she desires to challenge the primary specimen's results, only the employee can request that the split specimen be tested.
- In addition, an employer or a union (or other labor representative) may not act on the behalf of the employee in requesting that the split specimen be tested.
- The employee must make the request directly to the MRO.

**QUESTION:**

Can a split specimen be sent to a second laboratory that is under the same corporate title as the primary laboratory?

**ANSWER:**

- Yes. The rule requires the split to be tested at a different or second HHS-certified laboratory. For example, if the primary specimen was tested at XYZ Laboratory in Dallas, TX, the split specimen may be sent to XYZ Laboratory in Chicago, IL.
- HHS certifies each laboratory separately and on its own merits. Laboratories on the HHS listing of certified laboratories, even those under the same corporate title, are individually certified and are considered separate and unique from one another.

**QUESTION:**

Can the MRO require an employee's split specimen test request to be in writing rather than verbal?

**ANSWER:**

- 40.171(a) states that the employee's request may be verbal or in writing. Therefore, the MRO must accept a verbal request.
- The MRO may ask the employee for written documentation, but must immediately honor the verbal request.
- An MRO should always document whether or not an employee requested to have the split tested.
- The MRO must document the date and time of the employee's request.