

Office of Drug Enforcement and Program Compliance
49 CFR Part 40 Interpretation

Question: Does the DOT drug testing rule permit the use of a second and different medical review officer (MRO) to whom the results of the split specimen can be sent by the second laboratory?

Response: Section 40.33(f) states in part: *"... the MRO shall direct, in writing, the laboratory to provide the split specimen to another DHHS-certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s)...the MRO shall cancel the test..."*. The rule does not address the use of a second and different MRO to whom the results of the split specimen would be submitted and the Department's interpretation is that this procedure is not permissible under the DOT rule.

The laboratory results of the split specimen are for the presence of the drug or drug metabolite and the rule text does not authorize a "second" verification process of the split results. Therefore, the use of a second MRO does not appear to add to the overall verification process required by the rule. Additionally, if the split specimen fails to reconfirm or is not available for testing, it is the responsibility of the (original) MRO to cancel the test and provide notification of this cancellation to the appropriate parties. It would be inappropriate for the second MRO to cancel the test nor would the second MRO have the appropriate information to accomplish the cancellation notification.