

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

**Questions:** Is there such a thing as an MRO management company or does the law specify that a single certified MRO review each lab result from tested employees and personally transmit the test results to the specific employer? Does the law require that the owner of an MRO management company be a physician? Do negative test results have to be handled by a physician MRO, or can the results be handled by the MRO management company administrators?

**Response:** Section 40.3 defines an MRO to be *"A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program..."*, and Section 40.29(g) states that *"The MRO shall report whether the test is positive or negative..."*.

While 49 CFR Part 40 makes no mention of an "MRO management company" the regulations do address the role of the consortium and third party administrator (C/TPA). The rules do not permit the C/TPA to receive drug testing results directly from either the laboratory or from the MRO. The laboratory results are reported directly to the MRO, and the MRO results are reported directly to the employer.

Section 40.33(a) states *"...A positive test result does not automatically identify an employee/applicant as having used drugs in violation of a DOT agency regulation...review shall be performed by the Medical Review Officer (MRO) prior to the transmission of the results to employer administrative officials. The MRO review shall include review of the chain of custody to ensure that it is complete and sufficient on its face... The duties of the MRO with respect to negative results are purely administrative."*

Through interpretation of this section, the Department has permitted the administrative review to be conducted by staff persons working under the direct supervision of the MRO. While allowing this delegation of MRO responsibility, the Department never intended nor can it condone a practice which allows for MROs to appoint outside "agents" to perform this review. The MRO should have direct supervisory relationship with the reviewer and not simply have access to the "process" of the administrative review. Conversely, a C/TPA cannot contract for the MRO to only review positive drug test results leaving the review or processing of negatives to the consortium or third party administrator.