

October 7, 1991

This is in response to your letter of June 30, 1992, to Mr. George W. Tenley, Jr., Associate Administrator for Pipeline Safety, Research and Special Programs Administration, requesting guidance on two areas. Your questions and our answers are outlined below:

QUESTION: Whether "split samples" are allowable under the program guidelines?

ANSWER: Split samples are allowed, but not required. As noted in the preamble to the final rule to Part 40 published on December 1, 1989, (54 FR 49854), the Department decided not to require split samples. The rationale was the stringent safeguards embodied in the procedures (e.g. concerning collection, chain of custody, DHHS-approved labs, GCMS confirmation tests, and MRO verification).

QUESTION: Whether the 60-month time limit on unannounced random testing for return to duty testing of employees is determined by the MRO on a case-by-case basis or is it a matter that is subject to bargaining between the employer and its employee representative?

ANSWER: Section 199.11(e) states that, a part of the return to duty requirements, "An employee who returns to duty shall be subject to a reasonable program of follow-up drug testing without prior notice for not more than 60 months after his or her return to duty." Section 199.15(c)(4) stipulates that the MRO shall "determine a schedule of unannounced testing, in consultation with the operator, for the employee who has returned to duty." The MRO guidelines, published by DOT in October 1990, indicate that the MRO should determine the frequency of unannounced testing based on the assessment and recommendation of the counselor. Therefore, the time limit for an employee to be subject to unannounced testing is determined by the MRO on a case-by-case basis.

Thank you for your inquiry. Please let me know if you need any more information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug Compliance Coordinator
Office of Pipeline Safety
Enforcement