

December 31, 1992

Pamela J. Mason
Occupational Medical Coordinator
Health Department
Texaco Inc.
P.O. Box 1404
Houston, TX 77251

Dear Ms. Mason:

This is in response to your correspondence of November 11, 1992, requesting an interpretation of agency regulations concerning which tests an operator may count toward meeting the 50 percent random testing rate of employees subject to the drug testing regulations of more than one Department of Transportation (DOT) modality (i.e., Federal Highway Administration (FHWA)/Research and Special Programs Administration (RSPA)/United States Coast Guard).

Your correspondence requests that we define "attempt" of a good faith effort to provide a specimen when the test result is declared "invalid or incomplete" due to chain-of-custody problems, leakage, etc. Your company would like to include these good faith "attempts" in compiling their overall statistics to determine compliance with the 50 percent random testing rate of covered employees.

RSPA permits an operator to count only those tests for which a test result (negative/positive) was reported to the medical review officer (MRO) and employer. A specimen which was not tested by the lab for leakage, chain-of-custody problems, etc., in which no test result is reported back to the MRO/employer could not be counted toward meeting the 50 percent random test rate.

We understand FHWA is considering the issuance of an interpretation which would allow a motor carrier to count not only those tests for which a test result (negative/positive) is reported, but would also allow the motor carrier to count those tests in which no result is reported due to chain-of-custody errors, leakage, etc.

We are aware that many pipeline operators have combined their RSPA/FHWA employees into one common random selection pool. Therefore, having two different criteria for counting tests would place an additional and unnecessary burden on the pipeline industry.

If the FHWA proceeds with the issuance of an agency interpretation concerning this good faith "attempt", we would consider allowing operators to implement the same counting procedures.

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

Sincerely,

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