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**DEPARTMENT OF  
TRANSPORTATION**
**Research and Special Programs  
Administration**
**Pipeline Safety Advisory Bulletin  
ADB-93-05 Drug Testing Information**

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Drug testing information for pipeline operators and contractors.

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**SUMMARY:** The information provided herein is meant to assist pipeline operators and contractors in evaluating their anti-drug plans for compliance with 49 CFR parts 199 and 40.

**Advisory**

When anti-drug plans are reviewed or evaluated omissions or inadequacies should be remedied as needed, with particular attention to the following sections of the regulations and the "Failures" noted:

- §199.7 Failure to clearly delineate between DOT anti-drug testing requirements and company mandated testing requirements that are contained in a single document.
- §199.7 Failure to comply with part 40 requirements in anti-drug plan.
- §199.11 Failure to identify procedures or provide record documentation on various types of drug testing.
- §199.17 Failure to document or provide procedures for retention of samples and retesting provisions.
- §199.19 Failure to provide necessary requirements for Employee Assistance Programs (EAP) and employee/supervisor training.
- §199.21 Failure to adequately "monitor" contractor compliance with regard to parts 199 and 40.
- §40.25 Failure to provide adequate collection procedures in the anti-drug plan.
- §40.31 Failure to conduct and process blind performance testing samples.
- §40.33 Failure to provide adequate medical review officer procedures in the anti-drug plan.

The following are two other areas for operators and contractors to review/ evaluate to help make sure their anti-drug plans are fully in compliance:

- §199.11(e) Return-to-duty Test-

ing—This concerns the scheduling of unannounced testing for employees who have tested positive and are returned to duty to perform covered functions. Several operator anti-drug plans had defined specific unannounced testing schedules; however, further evaluation of the testing records failed to indicate that the testing schedules for these employees were carried out by the operator and the Medical Review Officer (MRO). §199.11(e) stipulates that "An employee who returns to duty shall be subject to a reasonable program of follow-up testing without prior notice for not more than 60 months after his/her return to duty." The MRO guide published by DOT indicates the MRO may make a return-to-duty recommendation if satisfied that an individual meets the requirements. Following the recommendation, the MRO must also establish an unannounced drug testing program for the individual. Such testing may be in effect for up to 60 months. The frequency of unannounced testing should be determined by the MRO based on the assessment and recommendation of the counselor and the employer.

- §40.31(d) Employer Blind Performance Test Procedures—This concerns the lack of documentation and submission of the appropriate number of blind samples as set forth in the Employer Blind Performance Test Procedures under §40.13(d). A recent analysis indicated that a large portion of pipeline operators who have been audited had failed to either (1) provide documentation to substantiate compliance with the provisions, or (2) submit the required number of blind samples based on the total number of employee tests submitted to each National Institute of Drug Abuse (NIDA) laboratory. Many operators are purchasing and submitting "spiked" blind samples even though they are not mandated under the current regulations. Operators are required to submit "spiked" blind samples when their employee total is greater than 2,000 covered employees. Each operator is required to submit three blind performance test specimens for each 100 employee specimens it submits, up to a maximum of 100 blind performance test specimens submitted per quarter to each NIDA laboratory being utilized by the operator.

**Background**

Office of Pipeline Safety (OPS) Regional Offices and the various state pipeline safety program agencies have con-

ducted numerous drug inspections of pipeline operators since drug testing was started in April/August 1990. A recent OPS review of enforcement actions from those inspections revealed some areas where probable violations are commonly found. These are listed and briefly described in the foregoing section ("Advisory") to help ensure operator compliance with parts 199 and 40.

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