DEPARTMENT OF DEFENSE
WASHINGTON HEADQUARTERS SERVICES
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

HUMAN REOURCES

July 9, 2004

#04-7984
P.C. 8400165

Walter F. Vogl, Ph.D.
Drug Testing Section
Division of Workplace Programs, CSAP
5600 Fishers Lane
Rockwall II, Suite 815
Rockville, MD 20857
FR Doc. 04-7984

Dear Dr. Vogl:

Thank you for the opportunity for the Office of the Secretary of Defense (OSD) and Washington Headquarters Services (WHS) to submit comments to the Department of Health and Human Services proposals regarding the establishment of:

(1) scientific and technical guidelines for testing of hair, sweat, and oral fluid specimens in addition to urine specimens;
(2) scientific and technical guidelines for using on-site tests to test urine and oral fluid at the collection site;
(3) requirements for the certification of instrumented initial test facilities; and
(4) added standards for collectors, on-site testers, and medical review officers.

The enclosed comments represent only OSD/WHS and not the entire Department of Defense. It is our understanding that the various components of the Department of Defense (DoD) will submit comments directly and that there will not be a consolidated DoD response. We have tried to comment on the issues of special interest, beginning on page 19687. We are unable to comment on Section 11, due to the scientific nature of the information.

If you have any questions, please contact Ms. Amy Wodesky at (703) 588-0439.

Sincerely,

Kimberly Brooks

Kimberly B. Brooks
Assistant Director
Labor and Management Employee Relations

Enclosure:
As stated

faxed 301-443-3031

COMMENTS ON HEALTH AND HUMAN SERVICES RULES ON CHANGES TO THE DRUG-FREE WORKPLACE PROGRAM

Section 2.2—Circumstances for Use of Certain Specimens

The chart describes certain circumstances when a specific specimen would be used. This agency would not use hair for pre-employment, random, return to duty or follow-up since recent drug use cannot be detected. Hair, in conjunction with urine, could be used for pre-employment and return to duty. In addition, the use of the sweat patch would label those being monitored and would be inappropriate for this agency's use. As stated in 2.3, below, we do not advocate the use of oral fluid as a valid specimen.

Section 2.3-Collecting Two Different Specimens

When an oral fluid is collected, a urine specimen must also be collected to confirm THC, which cannot be confirmed through oral fluid. Recommend that oral fluid not be considered as an alternative specimen if it cannot verify the presence of THC, one of the most commonly used drugs. When a urine specimen must be collected, it seems to defeat the purpose of collecting oral fluids. Unless a specific drug, other than THC, is being tested, recommend that oral fluid not be considered as an alternative specimen.

Section 2.4-Split Specimens

We are unclear regarding the reasoning behind mandating split specimens of urine, hair, oral fluid and sweat. With the current testing of 30 mL of urine, it provides an adequate amount of urine to allow a portion of the original specimen to be tested by a second laboratory. We do not believe that by collecting an additional 15mL for the purpose of being tested by a second laboratory is worthwhile. The increase in the quantity received from a donor from 30mL to 45mL, may be difficult to produce. With handling another specimen, opportunities for mistakes, errors and problems during collection is greater. Recommend that the use of a split specimen be left to the agency.

Section 3.2(a)—Inclusion of MDMA in Drug Screen

Recommend the inclusion of MDMA as a sixth drug to the five panel drug screen used now.

Section 3.4-Confirmatory Cutoff for Urine

Recommend lowering the initial test cutoff concentration for cocaine metabolite from 300 ng/mL to 150 ng/mL for urine. This cutoff will lower the tolerance and ensure a drug-free workforce.

Section 7.2—Collection Devices

We recommend a collection device cleared with the FDA prior to use as a specimen collection device. Also, it must not affect the specimen collected.

Section 8.6-Annual Inspection of Collection Site Clinics

The number of collection sites used that would have to be inspected for both random drug testing and pre-employment drug testing would be cost prohibited. We do not have the knowledge required to inspect collection sites for technical flaws. Those clinics that do not treat our personnel or applicants appropriately are noted and are not used in subsequent drug tests. With only one percent of the collection clinics not following proper procedures, it is a waste of resources, time, money to mandate Agency review of collections sites. For those clinics that are questionable and who have engaged in practices resulting in fatal flaws, those clinics should come under scrutiny of a site inspection conducted by HHS and possible barring from use by Federal Government for collection.

Section 11.26-11.28—Reporting of Quantitative Values for Non-Negative Reports

The reporting of the quantitative value for non-negative specimens prior to the MRO request would save time in requesting that information from the MRO.

Sections 14.4-14.7—Invalid Test Report

Recommend when the MRO must direct the agency to have another specimen collected, the specimen collected be the same specimen type as what was originally collected from the donor.

Sections 16.1-16.4—Fatal Flaws

The fatal flaws noted as to what does not cancel or cancels a test appear appropriate. We agree that the MRO should track those fatal flaws that could cancel a test with the collection individual or company being on alert for future fatal flaws that could cause a specimen not be tested.

General Comments

(1) Hair Color Bias – Until the studies that indicate certain hair color absorb more drug, recommend hair not be used as an alternative specimen.

(2) Sweat Patch Cleansing – Area to be considered for the sweat patch should be cleansed prior to application.