

**UNITED STATES DISTRICT OF COURT  
EASTERN DISTRICT OF LOUISIANA**

<hr/> <b>IN RE: OIL SPILL BY THE OIL</b>	<b>§</b>	<b>MDL No. 2179</b>
<b>RIG “DEEPWATER HORIZON”</b>	<b>§</b>	
<b>IN THE GULF OF MEXICO,</b>	<b>§</b>	<b>SECTION: J</b>
<b>ON APRIL 20, 2010</b>	<b>§</b>	
<hr/>	<b>§</b>	<b>JUDGE BARBIER</b>
	<b>§</b>	<b>MAG. JUDGE SHUSHAN</b>

**THIS DOCUMENT RELATES TO ALL CASES**

**PRETRIAL ORDER NO. 43 RELATING TO  
THE DEFINITION OF A SAMPLE**

CONSIDERING the United States’ Motion for an order governing the definition of when material becomes a sample subject to the preservation requirements of this Court, it is hereby ORDERED that the Motion is GRANTED as follows:

1. The provisions of Pretrial Orders 1 (Paragraph 14), 30, 34, 37, and 39s require the preservation of “Samples.” This Order clarifies when material being collected from the field constitutes a “Sample” that must be preserved and disposed of in accordance with the cited Pretrial Orders.

2. Material collected from the field that has been gathered in accordance with written sampling protocols becomes a Sample subject to the preservation obligation at the time that all of the steps identified in the sampling protocol are completed and, if applicable, a sample identification number has been assigned.

3. Material partially collected or contaminated during the collection process before the sampling protocol is completed is not a Sample and may be discarded so long the Party discarding the material makes a record of the disposal and the reasons for the disposal.

4. Extraneous material collected during the sampling process that is not part of the intended sample under the sampling protocol is not part of the Sample and need not be preserved. For instance, if a party is collecting a certain species of fish using nets and, in the process of pulling up the net temporarily captures fish of another species, the party needs to preserve only those fish targeted by the sampling protocol.

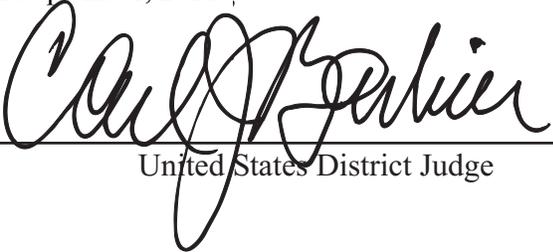
5. Samples that are contaminated or rendered unsuitable for analysis during shipment of the Sample to the laboratory for analysis may be discarded so long as the Party makes a record of the disposal and the reasons for the disposal.

6. Notwithstanding any other paragraph in this order, if, for reasons not foreseeable at the outset of the sampling activity, Samples collected in the field cannot be preserved because of safety issues (such as excessive weight on seagoing vessels) or because there are no practical means to preserve the Sample (for instance, there are no appropriate storage methods available), the Party collecting the Sample shall fully document the nature of the Sample, its condition, and all other information relevant to the intended analysis. After completing such documentation, the Party may discard the Sample.

7. Nothing in this order relieves any Party of its obligation to preserve any Information (as that term is defined in Pretrial Order 22) related to sampling relevant to any claim or defense in MDL 2179.

8. Further, except as expressly provided in this Order, nothing in this Order relieves any Party of its obligation to preserve Samples and comply with the requirements of Pretrial Orders 1, 14, 30, 34, 37, and 28.

New Orleans, Louisiana this 20th day of September, 2011.

  
United States District Judge