

March 14, 1990

Mr. Daniel J. McAlister
Manager of Gas Control
Intermountain Gas Company
555 South Cole Road
Boise, Idaho 83707

Dear Mr. McAlister:

In response to your letter of February 15, 1990, to Cesar De Leon, I have enclosed a copy of the guidelines we prepared to assist operators in implementing an anti-drug program under 49 CFR Part 199.

You expressed concern about the use of out-of-state contractors who may not be participants in an anti-drug program qualified under Part 199. The guidelines state (p.4) that "[a]n individual who continues to serve as an employee on and after the compliance date under a contract for such service in effect before that date would not be subject to pre-employment testing." Under Part 199 a contractor or person working for a contractor serves as an "employee" when he or she performs a covered function on a pipeline or LNG facility. Thus, any of your contractor personnel who continue to perform a covered function after the compliance deadline under a contract for that service in existence before the deadline may do so without having to pass a pre-employment drug test. They would, however, be subject to the other types of required drug tests (e.g., random) while they serve as an employee.

After the deadline for compliance, new persons brought in to perform a covered function under a preexisting contract or anyone who performs a covered function under a new contract must have passed a pre-employment test, unless that person is under a qualified anti-drug program. The possible delays and costs associated with the use of contractor personnel who are not in such programs can be avoided by advance planning. Such planning could include notification of contractors of the new drug testing requirements and, where appropriate, arranging to include their personnel in your company's anti-drug program.

Local fire department personnel who may respond to a plant emergency are not subject to drug testing under Part 199 unless they are employed by the plant operator or act under a contract to provide emergency-response services.

Please feel free to call Mr. De Leon if you have any further questions.

Sincerely,

George W. Tenley, Jr., Director

Office of Pipeline Safety