

July 13, 1990

Ms. Mary Beth LaCoste
Marketing Manager
Natural Gas of Milton
P.O. Box 909
Milton, FL 32572

Dear Ms. LaCoste:

Thank you for your letter of June 12, 1990, regarding the DOT regulations for drug testing of pipeline company employees (49 CFR Part 199). You asked whether an employee who receives information about gas leaks and then transfers it to other personnel without making any decision regarding an emergency would be subject to testing.

A person is subject to drug testing under Part 199 when that person performs on a gas pipeline to which the Federal safety standards in 49 CFR Part 192 apply an operation, maintenance, or emergency-response function that is regulated by Part 192. (See the Part 199 definition of "employee.") This jurisdictional test may be transformed into two questions, both of which must be answered affirmatively for Part 199 to require drug testing of a person working on a gas pipeline:

- (1) Does the function the person performs involve operation of a pipeline, maintenance of a pipeline, or response to a pipeline emergency?
- (2) Is the function the subject of a Part 192 regulation?

The primary regulation in Part 192 that concerns an operator's response to a pipeline emergency is § 192.615, "Emergency plans." Under paragraph (a) of § 192.615, an operator must have procedures for receiving notices of events that require immediate response by the operator. Among such events is a gas leak. Therefore, any employee who is responsible for receiving notices about a gas leak is performing a function involved in an operator's response to a pipeline emergency and is subject to drug testing. To be subject to drug testing, it is not necessary for the employee who takes such notices also to make decisions regarding an emergency, because receiving notices of events that require immediate response is an independent function for which procedures are required by § 192.615(a). At the same time, an employee who merely answers the phone and refers calls about a gas leak to another employee who takes the notice would not be subject to drug testing, because the other person is the one who would take or receive notice of the event, not the person initially answering the phone.

Please let me know if we can be of any further help to you in understanding the Part 199 drug testing requirements.

Sincerely,

George W. Tenley, Jr.
Director
Office of Pipeline Safety