

January 11, 1991

Mr. Raymond M. Holder
Manager, Materials Management
Sun Pipe Line Company
P.O. Box 2039
Tulsa, OK 74102

Dear Mr. Holder:

I am responding to your letter of August 27, 1990, asking for advice on how Sun Pipe Line Company should react to situations where service companies do not have a drug testing program that meets the requirements of 49 CFR Part 199. You also ask what we are doing to advise these companies about our drug testing requirements. We apologize for the delay in responding.

Under Part 199 an individual working for a pipeline contractor is an "employee" subject to drug testing when he or she performs on a pipeline an operation, maintenance, or emergency-response function that is regulated by 49 CFR Part 192 or 195. (See the Part 199 definition of "employee.") However, any contractor personnel who continue to perform a covered function after the compliance deadline (see ? 199.1) under a contract for that service in existence before the deadline may do so without having to pass a pre-employment drug test. Such personnel would 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.

With regard to your concern about contractors who hydrostatically test or perform other services on fire extinguishers, because these functions are performed on facilities other than pipelines, performance of these functions would not subject a person to drug testing under Part 199.

Because pipeline operators, and not contractors, are legally responsible for compliance with Part 199, we have directed our

educational activities toward the operators. Nevertheless, we have presented several seminars throughout the country that have been available to contractors.

Please let me know if you need any further information about compliance with the Part 199 drug testing requirements.

Sincerely,

George W. Tenley, Jr.
Associate Administrator for
Pipeline Safety