

June 20, 1991

Ms. Kathryn M. Ringblom
Legal Assistant
Peoples Natural Gas
1815 Capitol Avenue
Omaha, NE 68102

Dear Ms. Ringblom:

This is in response to your letter of April 23, 1991, regarding our drug testing regulations for pipeline employees (49 CFR Part 199).

You asked three questions about maintenance of an anti-drug plan under ? 199.7. Your questions and our answers are set forth below:

Question 1. Must references to alcohol abuse and alcohol testing be separated into another policy and plan if it is clear that it is not required by the Department of Transportation and if employees are informed in writing prior to testing that a test for alcohol is not under the authority of the DOT?

Answer 1. It is allowable for a company to have one overall drug testing plan which includes testing in addition to, but separate from, the requirements of Parts 199 and 40. Parts 199 and 40 do not specify the format for operators drug plans, however, operators, when combining other drug testing and alcohol testing into their plan required by ? 199.7, must clearly identify those matters relating to Parts 199 and 40 by keeping these requirements in separate sections, set apart in bold face types, underlined, or other equivalent means. Additionally, ? 199.7 requires an operator to provide procedures for notifying employees of the coverage and provisions of their anti-drug plan. It must be stressed that where a test (including the drugs tested for) varies from the requirements of Parts 199 and 40, violation of the DOT drug rules cannot be used as a basis for any action regarding the employee tested.

Question 2. It is necessary to have every detail from both Part 199 and Part 40 written in an operator's plan? (See Exhibit A) For example, is it necessary to state in the written plan every single duty of the Medical Review Officer? How long positive samples are stored by the laboratory and at what temperature? How to prepare every kind of restroom prior to collection of a sample? How to handle the failure of a donor to provide an adequate specimen of 60 milliliters? Every recordkeeping requirement? Or would statements such as, "The Company will keep all required records for the specific time required by the Department of Transportation as set forth in 199.23," be sufficient to include in an operator's written plan along with a copy of the regulations?

Answer 2. The requirements of ? 199.7 stipulates that each

operator is to maintain and follow a written anti-drug plan that includes all the requirements of Part 199 and 40. The written plan must clearly outline the methods and procedures by which the operator intends to comply with the regulations. The operator does not need to include all the information contained in both regulations, however, the anti-drug plan must provide clear guidance to its employees with regard to all aspects of drug testing. This would include addressing such issues as types of drug testing, specimen collection procedures, MRO functions, disciplinary actions for testing positive or failure to submit to testing and many other areas. To issue a generalized statement as you suggest would not be sufficient to comply with the regulations.

Question 3. Must all employees receive the entire company plan or is it sufficient that they receive the policy and a detailed summary of the regulations along with a notice that the entire plan is available for review in specific office locations?

Answer 3. The provisions of ? 199.7(d) provide that the operator's anti-drug plan contain procedures for notifying employees of the coverage and provisions of the plan. The operator could provide an in-depth or detailed summary of its anti-drug plan provisions of Part 199 and 40. Also, it is advisable, but not required, to include in the detailed summary information as to where the plan is located or posted should an employee desire to review the entire plan.

Thank you for your inquiry. Please let me know if you need any more information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug Compliance Coordinator
Office of Pipeline Safety
Enforcement