

September 16, 1992

Mr. W. Barry Baker  
Utility manager  
Loudon Utilities  
P.O. Drawer E  
Loudon, Tennessee 37774

Dear Mr. Baker:

This is in response to your letter of August 14, 1992, concerning pre-employment testing of employees. Your correspondence indicates that Loudon Utilities requires employees of both covered and non-covered positions to be subject to the same drug testing requirements. You asked whether an employee of one of the utilities would be subject to pre-employment testing if the employee desires to transfer from an uncovered position to a covered position?

An employee who performs an operation, maintenance, or emergency-response function must pass a pre-employment test before performing those covered functions. The drug testing requirements contained in 49 CFR Part 199.11(a) require that an operator may not use as an employee any person who has not passed a drug test or refuses to take a drug test required by Part 199. It would appear from your correspondence that you are using the same testing forms and procedures for both your non-covered and covered positions.

Testing of your non-covered employees must be based on the authority of the utility, and not this agency because these employees are not subject to the requirements of Part 199.

Therefore, an employee who is promoted or transferred from a non-covered into a covered position subject to the requirements of Part 199 must pass an RSPA prescribed pre-employment test prior to performing the covered functions. Previous inclusion in a company authorized drug testing program will not suffice.

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

Sincerely,

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