

February 6, 1991

Mr. Dan C. Edwards
International Representative
Oil, Chemical, & Atomic Workers
International Union
P. O. Box 21635
Billings, MT 59104

Dear Mr. Edwards:

I am responding to your letter of December 11, 1990, to Bea Vandervalk. You asked whether employees in petroleum refineries are subject to drug testing under the drug testing regulations in 49 CFR Part 199.

A person is subject to drug testing under Part 199 when that person performs on a pipeline or liquefied natural gas (LNG) facility an operation, maintenance, or emergency-response function that is regulated by 49 CFR Part 192, 193, or 195. (See the Part 199 definition of "employee.") Thus, unless Part 192, 193, or 195, has a safety standard that governs the function, the person who does the function is not subject to drug testing under Part 199.

Employees at petroleum refineries usually are not subject to drug testing under Part 199, because Parts 192, 193, and 195 do not apply to piping in refineries. On occasion, however, the operator of a pipeline or LNG facility may arrange with a refinery to do a function that is necessary to satisfy a safety standard in Part 192, 193, or 195 governing operation, maintenance, or emergency-response on the pipeline or LNG facility. Then, the refinery employee who does the function would be subject to drug testing under Part 199.

Section 195.406(b) contains a requirement that a pipeline operator possibly could meet through the action of a refinery employee. Under this section, each operator must provide adequate controls and protective equipment to control the pressure of hazardous liquid pipelines within a prescribed limit. Any person who does a function to provide this pressure control for a pipeline operator would be subject to drug testing under Part 199. Such a person might include a refinery employee who operates a pump that feeds a pipeline or who monitors pumping pressures.

John Land is Chief of Pipeline Safety for the Louisiana Department of Natural Resources, the State agency that enforces Part 199 against intrastate operators in Louisiana. I am sending him a copy of this letter to assure that he understands the limits of Part 199 regarding refineries. This should help resolve any differences you may have had with that agency regarding Part 199. There is no formal way for you to work through the Department of Transportation to bring charges against Louisiana.

I have enclosed a copy of Part 199. Please let me know if you need any further assistance in understanding the Part 199 drug testing requirements.

Sincerely,

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