

August 14, 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 July 19, 1991, requesting guidance on whether certain contractor employees are subject to drug testing under Part 199. Your letter indicates that a contractor who performs work for your company, depending on the scope of the work, obtains additional workers from a local union hall. The employees are either sent straight to the job site and the collection agency meets with them in a day or two, or, the employee reports to the collection site and then goes to the job site. You asked if this was an acceptable practice?

Section 199.11(a) states, **"No operator may hire or contract for the use of any person as an employee unless that person passes a drug test or is covered by an anti-drug plan that conforms to the requirements of this part."** This means the employees must submit to the test and that the operator or contractor must have a negative test result before that employee is placed into a covered function. It is required that the operator or contractor ensure that the other requirements of Part 199 are fully complied with such as random drug testing, education, and training requirements.

Under ? 199.21, the operator may provide, by contract, that the drug testing, education, and training required by this part be carried out by the contractor provided the operator remains responsible for ensuring that the requirements of this part are complied with and that the contractor allows access to property and records.

Assuming that these contractor employees obtained through the local union mall are not already covered under the DOT drug testing program, the procedure you have outlined in your correspondence is not acceptable and could subject your company to a citation and possible finding of probable violation of the Part 199 regulations.

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