

May 18, 1990

Mr. Thomas W. Worrell  
Manager, Industrial Relations  
South Jersey Gas Company  
Number One South Jersey Plaza  
Route 54  
Folsom, New Jersey 08037

Dear Mr. Worrell:

I am responding to your letter of April 16, 1990, to Cesar De Leon asking whether certain supervisory and management personnel must be included in your company's drug testing program under 49 CFR Part 199 in view of the activities those personnel perform under your company's emergency response manual.

A person is subject to drug testing under Part 199 when that person performs on a pipeline or liquefied natural gas facility a function that is regulated by 49 CFR Part 192, 193, or 195. (See the Part 199 definition of "employee.") Persons that serve in a supervisory or management capacity are not exempt from testing under Part 199. However, such persons are subject to testing only if they actually perform a regulated operation, maintenance, or emergency-response function. Merely directing the work of others who perform these regulated functions is not an activity that qualifies a person for drug testing under Part 199.

In Part 192, emergency plans are covered by § 192.615. This regulation requires operators to prepare written procedures covering various functions involved in responding to a gas pipeline emergency. Any function an operator describes in its § 192.615 procedures, including functions that exceed the minimum requirements of § 192.615, is a regulated function because compliance with the procedures is mandatory. Thus, performance of any function described in an operator's written procedures that are intended to implement § 192.615 would make a supervisor or manager who performs the function subject to drug testing under Part 199.

We trust this adequately responds to your inquiry.

Sincerely,

George W. Tenley, Jr.  
Director  
Office of Pipeline Safety