

Ms. Nancy J. Skancke
Ross Marsh Foster Myers & Quiggle
888 Sixteenth Street N. W.
Washington, DC 20006

Dear Ms. Skancke:

This responds to your letter of August 23, 1991, regarding the drug testing regulations under 49 CFR Part 199. You asked whether personnel at two gas processing plants are subject to drug testing under those regulations.

According to your letter, two plants are in a rural area outside the areas described by 49 CFR 192.1(b)(2). The plants receive gas from a gas gathering system and process the gas by removing natural gas liquids (NGLs). The NGLs are pumped into a hazardous liquid pipeline that is subject to 49 CFR Part 195. The processed gas is then returned to the supplier, who transports it to an interstate gas pipeline.

You also said that personnel in the plants affect the flow of gas and NGLs in the gas and hazardous liquid pipelines. They affect flow through their operation and control of the plant metering stations.

Under Part 199, persons who are subject to drug testing are called "employees." (See ?199.11.) The term "employee" is defined in ?199.3 as a person who performs on a pipeline any operating, maintenance, or emergency-response function that is regulated by 49 CFR Part 192, 193 or 195.

Part 192 does not apply to the gathering of gas that occurs onshore outside the areas listed in ?192.1(b)(2). Such gas gathering extends up to, and includes, gas processing plants. So persons are not subject to drug testing under Part 199 for work done on facilities used in the processing of gas inside a gas processing plant that lies onshore outside the areas listed in ?192.1(b)(2). Your letter indicates that persons working in the two plants fall under this exception from Part 199.

Part 195 does not apply to refining or manufacturing facilities or associated in-plant piping (?195.1(b)(6)). This exclusion covers the facilities used in the collection of NGLs inside a gas processing plant. Thus, persons are not subject to drug testing under Part 199 for work done on facilities used in the collection

of NGLs inside a gas processing plant, regardless of the location of the plant. Your letter indicates that persons working in the two plants fall under this exception from Part 199.

Note, however, that Parts 192 and 195 require the operators of the pipelines supplied by the gas processing plants to control pressure in the pipelines within prescribed limits (??192.619 and 195.406).

So, for transfers of gas or NGL from a gas processing plant to a pipeline regulated by Part 192 or 195, in-plant piping ends and the regulated pipeline begins at the inlet of each pressure control device on plant grounds that is necessary for the pipeline operator to control pressure in the pipeline outside the plant grounds. Sometimes the operator has adequate alternative means to control pressure in the pipeline outside the plant grounds. In these cases, we consider the in-plant piping to end and the regulated pipeline to begin at the boundary of the plant grounds, which usually is marked by a fence.

The operator of a regulated pipeline does not always own the devices located on the grounds of a gas processing plant (e.g., metering and pumping equipment) that are necessary to control pipeline pressure outside the grounds. The operator, nonetheless, is responsible for compliance with the Part 192 or 195 standards applicable to those devices. Compliance is required because the operator is using or relying on the devices to operate its pipeline within the Part 192 or 195 pressure limitations. In addition, ?199.11 requires the pipeline operator to drug test persons who perform on those devices any operating, maintenance, or emergency response function that Part 192 or Part 195 regulates. Your letter indicates that persons working in the two plants are subject to the drug testing requirements of ?199.11.

Sincerely,

Cesar De Leon
Director for Pipeline
Safety Regulatory Programs