

U.S. Department
of Transportation

**Research and
Special Programs
Administration**

September 4, 1991

Mr. James Wait
Division Chief, Pipeline Safety
State Fire Marshal Headquarters
7171 Bowling Drive, Suite 600
Sacramento, CA 95823-2034

Dear Mr. Wait:

This is in response to your letter of June 19, 1991, to George W. Tenley, Jr., Associate Administrator for Pipeline Safety, Research and Special Programs Administration, asking for guidance on whether a small refinery which has hazardous liquid lines subject to your office's jurisdiction must implement an anti-drug plan under Part 199.

Your letter indicates that the refinery instituted a stringent drug testing program in 1986. As a result of a law suit, that challenged the implementation of the 1986 drug program, the drug program was changed to a court ordered program. The court ordered drug testing program is different in several respects from the requirements of Part 199.

The operator (intrastate) would be required to have an anti-drug testing program which conforms to the requirements of 49 CFR Parts 199 and 40 as outlined in your appropriate state regulations. An operator has to comply with the requirements of Parts 199 and 40 by April 20, 1990, (50 or more employees), or August 21, 1990, (less than 50 employees).

The operator may have two separate drug testing programs; one which meets the court ordered requirements and one that complies with our regulations. As you have indicated, the operator may petition the courts to allow the DOT regulations to replace the court ordered requirements.

Thank you for your inquiry. Please let me know if you need any more information or assistance.

Sincerely,

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