

June 24, 1993

This is in response to your correspondence of April 8, 1993, requesting an interpretation to determine whether the employees of another company that you are going to employee in a covered function currently subject to the Department of Transportation (DOT) anti-drug regulations, would be subject to a pre-employment drug test.

Your correspondence indicated that a pipeline operator intends on dropping the services of one of its contractors for that of another (yours). All use the same consortium to administer their drug testing programs.

The situation involves an operator who had a contract with a company to perform inspection work. At the end of the contract the operator elected not to renew the contract. Instead, the operator has opted to enter into a contract with your company to provide similar services which would be considered covered functions under Part 199. A number of employees working for the first contractor are going to be hired by your company. You indicate that these employees were immediately included in your DOT random pool.

The employees which your company will hire would not be subject to pre-employment testing so long as the operator is provided with documentation to substantiate that the former employer was in compliance with the recordkeeping requirements of 49 CFR Section 199.23. However, attempts to obtain such records from previous operator does not adequately demonstrate compliance with the regulations. An operator must either have the appropriate documentation required by the regulations, or conduct any necessary tests and training to demonstrate that the operator is in compliance. The employees should also be included in your random pool and be subject to the random selection process as soon as possible following the acquisition of these employees.

Thank you for your inquiry. Please let me know if you need additional information about our drug testing requirements.

Sincerely,

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