

December 30, 1993

This is in response to your correspondence of October 15, 1993, requesting guidance on whether certain professionals in "office positions" meet the criteria for being included in the random drug testing pool prescribed by 49 CFR Part 199.

Your correspondence indicates that certain professionals take an active role in assessing conditions and assisting in the formulation of a plan to investigate or correct an emergency situation. Although they may direct others in the repair process or in the taking of samples, etc., they do not perform the work themselves. Your understanding is that persons are in the random pool only when emergency-response personnel are either working in a customer service type capacity, such as "receiving and classifying events" or when these individuals must actually be "on the pipeline" when responding to emergencies.

Your correspondence does not clearly identify the functions performed by the "professionals" in your offices who assist in emergency-response functions or investigative procedures. However, a person is subject to drug testing under Part 199 when that person performs on a pipeline or LNG facility an operation, maintenance, or emergency response function that is regulated by 49 CFR Part 192, 193 or 195. Persons that serve in 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.

The issue concerning customer service type individuals can best be explained in the following manner. The primary regulation in Part 192 that concerns an operator's response to a pipeline emergency is 192.615. Under this section, an operator must have procedures for receiving notices of events that require immediate response by the operator. Among such events is the smell of gas by a customer. Therefore, any employee who is responsible for answering the telephone or monitoring radio alarms, and then taking notices from customers as a consequence of performing those activities, is performing a function involved in an operator's response to a pipeline emergency and is subject to drug testing. "Taking notices" is defined as writing down the information on a permanent record or form. An employee who merely answers the phone and refers calls to another employee would not subject the first employee to drug testing, but would subject the latter employee taking notice of the event.

If you need additional information about what might constitute performing an emergency-response function, please provide more specific information about the individual's job requirements.

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
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Compliance