

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 1, 1994

Mr. J.C. Durbin  
President and General Manager  
Mobil Pipe Line Company  
P.O. Box 900  
Dallas, TX 75221

CPF No. 34503M

Dear Mr. Durbin:

On September 8-9, 1992, a representative of the Central Region, Office of Pipeline Safety, pursuant to Section 211(c) of the Hazardous Liquid Pipeline Safety Act, 49 U.S.C. App. § 2001 et. seq. (HLPESA), conducted an inspection of your anti-drug plan at Dallas, Texas.

As a result of this review, and the requirements of § 199.7(a) to maintain and follow a written anti-drug plan that conforms to the requirements of Part 199 and the DOT Procedures at 49 Code of Federal Regulations (CFR), Part 40, the following inadequacies were noted in your written procedures:

**1) § 199.7 Anti-drug Plan.**

§ 199.7 requires that the written anti-drug plan contain the methods and procedures for compliance with all the requirements set out in 49 CFR Part 199 and 49 CFR Part 40, including the employee assistance program, and procedures for notifying employees of the coverage and provisions of the plan. Also § 199.7 requires that the name and address of each NIDA laboratory that analyzes the specimen collected for drug testing, and the name and address of the operator's medical review officer, must also be included in the anti-drug plan.

Mobil's anti-drug plan did not have adequate procedures to address the following items:

a) § 199.17 Retention of samples and retesting.

§ 199.17(b) states: "If the medical review officer (MRO) determines there is no legitimate medical explanation for a confirmed positive test other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory or by a second laboratory that is certified by the Department of Health and Human Services. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative".

Mobil's anti-drug plan denied a job-applicant the right to a retest in accordance § 199.17(b). The definition of employee contained in § 199.3 used in conjunction with the definition in § 40.3 specifically includes a job-applicant as an employee.

b) § 40.23 Preparation for testing.

§ 40.23 states "The employer and certified laboratory shall develop and maintain a clear and well-documented procedure for collection, shipment, and accessioning of urine specimens under this part".

Mobil's anti-drug plan did not contain any specific collection procedures as required by § 199.7 and § 40.23.

c) § 40.23 Preparation for testing.

§ 40.23(d)(2)(ii) states "Written procedures, including instructions and training, shall be provided as follows: ... Collection site persons shall be provided with detailed, clear instructions on the collection of specimens in compliance with this part. Employer representative and donors subject to testing shall also be provided standard written instructions setting forth their responsibilities".

Mobil's anti-drug plan did not make provisions for furnishing donors with standard written instructions setting forth their responsibilities. Mobil did have standard written instructions for collection site persons.

**d) § 199.3 Definitions.**

**§ 199.3 defines a prohibited drug as "any of the following substances specified in Schedule I or Schedule II of the Controlled Substances Act, 21 U.S.C. 801.812 (1981 & 1987 Cum.P.P): marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP)".**

Mobil's anti-drug plan did not state for which prohibited drugs employees would be tested. The plan must identify marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP) as prohibited drugs.

**e) § 199.5 DOT procedures.**

**§ 199.5 states "The anti-drug program required by this part must be conducted according to the requirements of this part and the DOT Procedures. In the event of conflict, the provisions of this part prevail".**

Mobil's anti-drug plan did not notify employees (per § 199.7) of the coverage of the plan under Part 40. The plan should inform employees that the urine drug testing specifications of the plan are required by 49 CFR Part 40 and Part 199.

**f) § 40.21 The drugs.**

**§ 40.21(b) states "An employer may include in its testing protocols other controlled substances or alcohol only pursuant to a DOT agency approval, if testing for those substances is authorized under agency regulations and if the DHHS has established an approved testing protocol and positive threshold for each such substance."**

Mobil's anti-drug plan did not clearly differentiate between the DOT required anti-drug plan and the company anti-drug plan. Mobil's company drug plan includes testing for alcohol. At the time of the inspection, Part

199 did not approve inclusion of alcohol testing in the DOT required anti-drug plan.

When it is found that an operator's procedures are inadequate, Title 49 CFR, § 190.237 provides that the operator, after notice and opportunity for hearing, may be required to amend its plans and procedures. This letter serves to provide you with notice of the inadequate procedures and the response options as prescribed under § 190.237, Title 49 CFR. The operator is allowed thirty (30) days after receipt of such notice to submit written comments or request an informal hearing. After considering the material presented, the Office of Pipeline Safety is required to notify the operator of the required amendment or withdraw the notice proposing the amendment.

The purpose of this letter is to document and to provide you with a notice of the inadequate procedures at the time of the inspection. By letters dated January 12, 1993, May 6, 1993 and May 21, 1993, Mobil informed the Central Region, Office of Pipeline Safety that the Mobil anti-drug plan had been revised following the September, 1992 inspection. The Central Region Office has reviewed the revised procedures and determined that no further action is necessary at this time.

Sincerely,

Ivan A. Huntoon  
Director, Central Region  
Office of Pipeline Safety