

April 26, 1991

Mr. Glenn D. Smith
Chief, Pipeline Safety Utilities Division
Kansas Corporation Commission
1500 S.W. Arrowhead Road
Topeka, KS 66604-0427

Dear Mr. Smith:

I am responding to your January 30, 1991, letter to Ivan Huntoon, Chief, Central Region, Office of Pipeline Safety. You asked Mr. Huntoon to confirm your supposition that a gas operator's written drug plan is permitted to include alcohol and more stringent drug testing requirements than 49 CFR Parts 199 and 40 provided:

- (1) All subject matters relating to Parts 199 and 40 are clearly identified.
- (2) "Clearly identified" means:
 - (a) Addressed only in separate, identified sections of the plan; or,
 - (b) Set apart in bold face type; or,
 - (c) Underlined

Your supposition is correct. It is allowable for a company to have one overall drug testing plan which includes testing in addition to, but separate from, the requirements of Parts 199 and 40. Parts 199 and 40 do not specify the format for operators' drug plans; however, operators, when combining other drug testing into the plan required by ? 199.7, must clearly identify those matters relating to Parts 199 and 40 by keeping these requirements in separate sections, set apart in bold face types, underlined, or other equivalent means. It must be stressed that where a test (including the drugs tested for) varies from the requirements of Parts 199 and 40, violation of the DOT drug rules cannot be used as a basis for any action regarding the employee tested.

Sincerely,

George W. Tenley, Jr.
Associate Administrator for
Pipeline Safety