

February 21, 1990

Mr. James R. McSweeney  
Senior Supervisor  
Risk Management Department  
National Fuel Gas Distribution Corporation  
10 Lafayette Square  
Buffalo, New York 14203

Dear Mr. McSweeney:

I am responding to your letter of January 29, 1990, to Cesar De Leon, in which you ask us to comment on the randomness of your company's random drug testing plan.

The Department's drug testing regulations applicable to pipeline operators (49 CFR Part 199) do not require operators to submit their plans for approval by this office before the plans are put into effect. In New York these regulations will be adopted and enforced under state law against intrastate operators by the New York Public Service Commission, acting under § 5 of the Natural Gas Pipeline Safety Act of 1968. We suggest that you ask that agency whether it has established prior-approval requirements for the drug testing plans.

In the absence of a prior-approval requirement, we expect that governmental review of operator's drug testing plans will not take place until after the April 20, 1990, compliance deadline. Reviews will be done in the field by enforcement personnel during routine inspection visit to evaluate compliance with the pipeline safety standards.

I do have a few comments about randomness in general. The drug testing regulations allow each operator to devise a random selection procedure that meets its needs, But random selection means that each employee subject to drug testing has a statistically equal chance of being selected. This way the selection procedure is not biased and instills a sense of fairness among the employees.

Sincerely,

George W. Tenley, Jr.  
Director  
Office of Pipeline Safety