

## WARNING LETTER

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 18, 1999

Gilmer Abel  
Senior Vice President, Operations  
East Tennessee Natural Gas Company  
1001 Louisiana Street  
Post Office Box 2511  
Houston, Texas 77252-2511

CPF No. 27108W

Dear Mr. Abel:

On April 22, 1997, Mike Schwarzkopk, a representative of the Southern Region, Office of Pipeline Safety, pursuant to Chapter 601 of 49 United States Code, conducted an onsite field drug and alcohol inspection at your Kingsport, Tennessee facilities.

As a result of the inspection, it appears that you have committed probable violations as noted below of pipeline safety regulations Title 49, Code of Federal Regulations, Parts 40 and 199.

The items inspected and the probable violations are:

1. *§ 40.33 (c)(5)(ii) states the MRO may verify a test as positive without having communicated directly with the employee about the test when neither the MRO nor the designated employer representative, after making all reasonable efforts, has been able to contact the employee within 14 days of the date on which the MRO receives the confirmed positive test result from the laboratory;*

The procedures for verifying a test result in the Tenneco Gas Drug Testing Program Supervisor's Administrative Manual, Section V: MRO Procedures, page 3, item 3 do not address the provision to verify a test result as positive after 14 days if the operator and MRO are unable to contact the employee after the MRO receives the confirmed positive test result from the laboratory.

2. *§ 199.17 (b) requires that "If the MRO determines there is no legitimate medical explanation for a confirmed positive test result 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 Tenneco Gas Anti-Drug plan and Tenneco Gas Drug Testing Program Supervisor's Administrative Manual do not allow the employee 60 days from receipt of the final test result from the MRO to make a written request for a retest of the original sample. The employee is given 72 hours to make a written request for a test of the split specimen.

3. *§ 40.33 (f) requires the operator to conduct a analysis if the split specimen if requested by the employee within 72 hours of having been informed of the positive test result. The operator is responsible for ensuring that the test occurs, including taking responsibility for paying for it. The operator may arrange with the employee for reimbursement, but the refusal of the employee to contribute to the cost of the test does not excuse the operator from ensuring that the test takes place. An agreement signed by the employee, or a labor-management agreement may specify the payment source, however the split specimen testing process should not be delayed while awaiting payment.*

The Tenneco Gas Drug Testing Program Supervisor's Administrative Manual, Part VI: Laboratory Procedures provides that the operator may require the employee to pay up front for the test of the split specimen. The operator wording is consistent with 199.17 (b), which covers the 60-day written request for a retest of the original sample, not the 72-hour request for a test of the split specimen. Regardless of an employee or labor-management agreement, the operator is responsible for ensuring that the 72-hour retest of the split specimen takes place if requested by the employee.

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$25,000 for each violation for each day the violations persists up to a maximum of \$500,000 for any related series of violations.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to assess you a civil penalty. We advise you, however, that should you not correct the circumstances leading to the violations, we will take enforcement action when and if the continued violations comes to our attention.

You will not hear from us again with regard to the noted inspection and our subsequent action. Because of the good faith that you have exhibited up to this time, we expect that you will act to bring your pipeline (and/or your operations) into compliance with pipeline safety regulations. Please refer to CPF No. 27108-W in any correspondence and/or communication on this matter.

Sincerely,

Frederick A. Joyner  
Director, Southern Region  
Office of Pipeline Safety

cc: Compliance Officer, OPS Headquarters

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cc: DPS-20.1, Regions, Mike