

WUTC
HEADQUARTERS INSPECTION FORM
ANTI-DRUG PROGRAM

Name of Operator: Swissport Fueling Inc		UTC Representative (s): Joe Subsits	
OP ID No. 31779		Inspection Date(s): April 7, 2009 to April 9, 2009	
HQ Address: 45025 Aviation Dr Suite 350 Dulles VA 20166		Swissport Fueling inc 2350 S 190 th St Seattle, WA 98188	
Co. Official: Frank J Grolimund, Vice President, Operations Phone No.: (703) 742-4306 Fax No.: (703) 742-4388 Emergency Phone No.: (206) 499-8687			
Persons Interviewed		Title	
Nestor Soriono		QA/QC Engineer	
		Phone No. (206) 246-0407	

Type of Facility:

- Gas Transmission Pipeline
 Hazardous Liquid Pipeline
 Gas Distribution System
 Liquefied Natural Gas

Anti-Drug Plan and Policy developed by:

- Operator
 Contractor
 Consortium

Anti-Drug Testing Program administered by:

- Operator
 Contractor
 Consortium

Contractor records maintained by:

- Operator
 Contractor
 Consortium

Specimen collection conducted by:

- Operator Personnel On-Site
 Operator Personnel Off-Site
 Contractor Personnel On-Site
 Contractor Personnel Off-Site

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§199.1 Scope and compliance		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.1	1. Does the operator test covered employees for the presence of drugs & alcohol?	
§199.3 Definitions		
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.3/§195.50	1. Does plan contain applicable accident or incident definitions as defined in §§191.3 or 195.50?	Plan must contain one or both definitions.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.3/§40.3	2. Does plan contain complete definition of "covered employee"?	Plan should address "applicants." Covered Employee: Any person who performs an operation, maintenance, or emergency-response on the pipeline or LNG facility that is regulated by Parts 192, 193, or 195.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.3	3. Does operator plan address testing for only the following drugs? Marijuana x__ Opiates x__ Cocaine x__ Amphetamines x__ Phencyclidine(PCP) x__	

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§199.101 Anti-drug plan		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.101(a)	1. Does the operator maintain and follow a written anti-drug plan that confirms to §§ Part 199 & 40 (Procedures for Transportation Workplace)?	Plan must address requirements of Part 40, specifically the collection, laboratory and MRO procedures.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.101(a)(1)	2. The plan must contain: a. Methods and procedures for compliance with all requirements of CFR 49 Part 199, including an employees assistance program:	Note: Clarification of company policy vs. DOT requirements. Company policy should be identified by using bold and underlined type.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.101(a)(2)	b. The name/address of each laboratory that analyzes the specimens collected for drug testing; and	
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A §199.101(a)(3)	c. The name/address of the operator's medical review officer (MRO) and Substance Abuse Professional (SAP).	

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§199.101 Anti-drug plan		
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<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A §199.101(a)(4)	d. Specify procedures for notifying employees of the coverage and provision of the plan.	Plan must contain specific details on how this is accomplished and what information is provided to employees.
§199.103 Use of persons who fail or refuse a drug test		
	1. Does the anti-drug plan provide that an operator may not use as employee any person who:	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(a)(1)	a. Fails a drug test required by §199.105 and the MRO determines there is no legitimate medical explanation for the confirmed positive test other than unauthorized use of a prohibited drug?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(a)(2)	b. Refuses to take a drug test required by Part 199?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(b)	2. Does the plan specify that a person may be used in a covered function if that person has:	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(b)(1)	a. Passed a DOT drug test?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(b)(2)	b. Been recommended by the SAP to return-to-duty?	Plan should specify action taken if individual fails drug test after returning to duty
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.103(b)(3)	c. Not failed a drug test required by Part 199 returning to duty?	

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§199.105 Drug tests required		
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<p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(a)</p>	<p>Pre-Employment Testing</p> <p>Does the operator conduct the pre-employment testing which includes the following:</p> <p>a. All individuals pass a DOT drug test for the employer prior to employment or assignment in a covered function?</p>	<p>Persons already covered by an anti-drug program conforming to Part 199 need not test.</p>
<p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(b)</p>	<p>Post-Accident Testing</p> <p>Does the operator conduct the post-accident testing which includes the following:</p> <p>a. Drug test each employee, as soon as possible but no later than 32 hours after an accident, whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident?</p>	

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§199.105 Drug tests required		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(b)	b. Decision not to test has been based upon the best information available immediately after the accident that the employee's performance could not have contributed to the accident?	Documentation pertaining to decision to test or not to test should be maintained by operator or contractor.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(b)	c. Decision not to test because of the time between the employee's performance and the accident; it is not likely that a drug test would reveal whether the performance was affected by drug use?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(c)	Random Testing 1. Does the operator's anti-drug plan have specific procedures that provide for: a. Random employee selection process?	Specify type of random selection process.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(c)(2)	b. Determination of 25% annualized rate? (DOT notice dated 12/28/2006)	Calculate 25% random rate for each year. Plan must specify random period (12 times a year, or 4 times a year, etc.)

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§199.105 Drug tests required		
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<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(c)(5)	c. The random selection procedure is based on a random table or on a computer-based number generation system, or another method meeting DOT requirements.	Note: An employee should immediately report to the collection site or within 30 minutes, plus travel time, once notified by a company official.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(c)(6)	d. The annualized rate of un-announced testing on random selection is based on the total number of personnel in covered positions.	Determine random pool size at beginning of calendar year or average pool size over 12-month period, based on the number of employees at the time of each test cycle or any other similar scheme that will take into account the variable number of employees during the year
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(c)(7)	e. Is plan spread reasonably through-out the year?	(Semi-annual and annual are unacceptable.)
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(d)	Reasonable Cause 1. Each employee who performs a covered function, and who is reasonably suspected of using prohibited drugs, is tested for the presence of drugs in accordance with the regulations.	

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§199.105 Drug tests required		
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<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(d)	2. At least two supervisors, one of whom is trained in detection of the symptoms of drug use, substantiate and concur in the decision to test an employee who is reasonably suspected of drug use.	In the case of an operator with 50 or fewer covered employees subject to testing, only one supervisor of the employee, trained in detecting possible drug use symptoms shall substantiate the decision to test.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(d)	3. Decisions to test are reasonable and articulable, and based on specific contemporaneous physical, behavioral or performance indicators of probable drug use.	The concurrence between the two supervisors may be by telephone.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(e)/§40.281-313	Return-to-Duty 1. Covered employees who have refused a drug test or have returned to duty after having failed a DOT required drug test, must be evaluated face-to-face by a SAP, have properly followed any prescribed assistance, and be subject to a return-to-duty test.	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(f)	Follow-up testing 1. Follow-up testing is performed on an un-announced basis, at a frequency established by the SAP, for a period of not more than 60 months.	May include testing for alcohol in accordance with 49 CFR Part 40 as directed by the SAL.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.105(f)	2. At least six tests must be conducted within the first 12 months following the covered employee's return to duty.	May include testing for alcohol in accordance with 49 CFR Part 40 as directed by the SAL.

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§199.107 Drug testing laboratory		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.107(a)	1. Does the operator use only those drug testing laboratories certified by the Department of Health and Human Services (DHHS) under the DOT Procedures for all drug testing required by 49 CFR 199?	Check labs listed by operator against latest HHS/SAMHA certified lab list (dated 12/26/2006).
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.107(b)(1)	2. Does the lab permit inspections by the operator prior to being awarded a testing contract?	Must allow un-announced inspections by the operator, plan administrator, or jurisdictional state agency representative.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.107(b)(2)	3. Does the lab allow un-announced inspections, including examination of records, at any time?	Must allow un-announced inspections by the operator, plan administrator, or jurisdictional state agency representative.
§199.109 Review of drug testing results		
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A §199.109(a)	MRO Qualifications and Responsibilities 1. Does the operator's plan designate a medical review officer?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.109(b)/§40.121	2. Does the operator's plan state that the MRO is a licensed physician and has the required qualifications required under §40.121?	What documentation is available to determine MRO's qualifications?
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.109(c)/§40.123	3. Does the MRO perform functions for the operator as required under §40.123?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.109(d)/§40.163	4. Does the MRO report all drug test results to the operator as required by §40.163?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.109(f)	5. Does the operator ensure that the SAP does not refer covered employees requiring assistance, to the SAP's private practice?	

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§199.111 Retention of sample and retesting		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(a)	1. Are samples that yield positive results on confirmation retained by the laboratory in properly secured, long-term, frozen storage for at least 365 days as required by the DOT Procedures found?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(b)	2. If the MRO determines there is no legitimate medical reason for a confirmed positive test result, do the procedures permit the employee to submit a written request for a retest within 60 days of receipt of the final test results from the MRO?	Note: If a single specimen container is used, an employee has within 60 days to request a reanalysis after being notified of a positive test result. If a split specimen container is used, an employee has within 72 hours to request a reanalysis after receiving notification of a positive test result.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(b)	a. The employee may request retesting by a second DHHS certified lab.	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(b)	b. The employee must be reimbursed if the retest is negative.	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(b)	c. The operator may require the employee to pay the associated retest costs in advance.	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(c)	3. If the employee requests retesting by a second laboratory does the original laboratory follow approved chain-of-custody transfer procedures?	

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§199.111 Retention of sample and retesting		
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<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.111(d)	3. Because it is possible that some analyses may deteriorate during storage, the results of a retest are to be reported as confirmation of the original test results if the detected level of the drug are (a) below the DOT established limits and, (b) equal to or greater than the sensitivity of the test.	
§199.113 Employee Assistance Program (EAP)		
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(a)	1. Does the operator provide an EAP for its employees and supervisory personnel?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(a)	a. Does the EAP include education and training about drug use?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(b)	2. Does the operator, as part of the EAP, display and distribute: a. Information material?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(b)	b. Community service hot-line telephone number for employee assistance?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(b)	c. The employer's policy regarding the use of prohibited drugs?	

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§199.113 Employee Assistance Program (EAP)		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.113(c)	3. Does the operator provide at least a 60-minute period of training for supervisory personnel which teaches the specific contemporaneous physical, behavioral, and performance indicators of probable drug use?	
§199.115 Contractor employees		
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.115	Does the operator provide, by contract, that the drug testing, education and training of contractor employees required by 49 CFR Part 199 be carried out by contractor?	The contractor can provide the services through a consortia or third-party provider.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.115(a)	1. Does the operator remain responsible for ensuring compliancy with the requirements of 49 CFR 199, and	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.115(b)	2. Does the contractor allow access to property and records by the operator, DOT and any jurisdictional state agency for the purpose of monitoring the operator's compliance with the requirements of 49 CFR 199?	How does the employer "monitor" the contractor's compliance with Parts 199 and 40?

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§199.117 Recordkeeping		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(a)	1. Does the anti-drug plan require the operator to keep the following record; and do records verify that the plan is being carried out?	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(a)(1)	(1) Records demonstrating that the collection process conforms to Part 199 must be kept at least 3 years .	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(a)(2)	(2) Records that show an employee failed a drug test, the type of test failed, (e.g., post-accident) and records that demonstrate compliance with the SAP's recommendations, if any; and MIS annual report data shall be maintained for a minimum of five years .	

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§199.117 Recordkeeping		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(a)(3)	Records showing an employee passed a drug test for at least 1 year .	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(a)(4)	Records confirming that supervisors and employees have been trained as required by this part for at least 3 years .	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(b)	2. Does the procedures prohibit the release of an individual's drug test results or rehabilitation except as follows:	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(b)	a. Upon written consent of the individual; or	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(b)	b. Upon provided by DOT procedures (49 CFR Part 40);	
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(b)	As part of an accident investigation; or	
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.117(b)	For statistical evaluation (only without names); and training records.	

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§199.119 Reporting of anti-drug testing results		
COMPLIANCE	CRITERION	GUIDANCE
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.119(a)	Does the plan make provisions for submitting an annual MIS report to PHMSA no later than March 15 of each year for the prior calendar year?	For “large” operators with more than 50 covered employees.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.119(c)	Does the operator correctly calculate the total number of covered employees eligible for random testing throughout the year?	Operators conducting random testing more often than once per month (e.g., you select daily, weekly, bi-weekly), do not need to compute this total number of covered employees rate more than on a once per month basis.
<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A §199.119(d)	If used, does the operator ensure that the service agent used is testing at the appropriate percentage established for the industry and that only covered employees are in a random testing pool?	Service agents (e.g., C/TPA) may be used to perform random selections; and covered employees may be part of a larger random testing pool of covered employees.
<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A §199.117(e)	Are covered employees who perform multi-DOT agency functions (e.g., an employee performs pipeline maintenance duties and drives a commercial motor vehicle), counted only on the MIS report for the DOT agency under which he or she is randomly tested?	Normally, this will be the DOT agency under which the employee performs more than 50% of his or her duties.

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A review of Swissport's Drug and Alcohol Testing Program revealed missing items. These are:

- a. 49 CFR 199.101(a)(3) requires that the name/address of the operator's medical review officer and substance abuse professional be identified in the plan.
- b. 49 CFR 199.101(a)(4) requires procedures for notifying employees of the coverage and provisions of the plan
- c. 49 CFR 105(d) requires that each employee who performs a covered function, and who is reasonably suspected of using prohibited drugs, is tested for the presence of drugs in accordance with the regulations
- d. 49 CFR 199.117(b) requires that procedures prohibit the release of the individuals drug test results or rehabilitation except as part of an accident investigation
- e. 49 CFR 195.52 requires that certain releases be reported to the Federal government