



**Pacific Gas and
Electric Company***

Frances Yee
Acting Director
Regulatory Compliance & Support
Gas Operations

375 N. Wiget Lane, Suite 200
Walnut Creek, CA 94598

925-974-4316
Fax: 925-974-4102
Internet: FSC2@pge.com

February 1, 2013

Mr. Mike Robertson
Gas Safety and Reliability Branch
Consumers Protection and Safety Division
California Public Utilities Commission
320 West 4th Street, Suite 500
Los Angeles, CA. 90013

Re: State of California – Public Utilities Commission
General Order 112-E Audit – PG&E’s Drug and Alcohol Testing Program

Dear Mr. Robertson:

The Consumer Protection and Safety Division (CPSD), Gas Safety and Reliability Branch (GSRB) of the CPUC conducted a General Order 112-E audit of PG&E’s Drug and Alcohol Program on May 21-23, 2012. On December 21, 2012, the CPSD submitted their audit report, identifying violations and findings. Attached is PG&E’s response to the CPUC audit report.

Please contact Larry Berg at (925) 974-4084 or LMB5@pge.com for any questions you may have regarding this response.

Sincerely,

Frances Yee

Attachments

cc: Banu Acimis, CPUC
Julie Halligan, CPUC
Fred Hanes, CPUC
Dennis Lee, CPUC
Alin Podoreanu, CPUC
Sunil Shori, CPUC

Jane Yura, PG&E
Larry Deniston, PG&E
Larry Berg, PG&E
Kathy Ocegüera, PG&E

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

INSPECTION INFORMATION

Inspection Dates	Finding	CPUC Contact	CPUC Phone #
May 21-23, 2012	NOV-1	Banu Acimis	(916) 928-3826

INSPECTION FINDING

CPUC Finding	<p>I. <u>Post-accident Testing</u></p> <p>Title 49, Code of Federal Regulations (CFR), §199.225 Alcohol tests required.</p> <p>Each operator shall conduct the following types of alcohol tests for the presence of alcohol:</p> <p>(a) <i>Post-accident.</i> (1) As soon as practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section shall be based on the operator's determination, using the best available information at the time of the determination that the covered employee's performance could not have contributed to the accident.</p> <p>(a)(2)(i) If a test required by this section is not administered within 2 hours following the accident, the operator shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by paragraph (a) is not administered within 8 hours following the accident, the operator shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.</p> <p>CPSD reviewed and noted in PG&E's post-accident drug and alcohol test results of reportable gas incidents that it did not comply with the requirements of 199.225 (a)(2)(i) when it responded to a 2010 incident which occurred in Rocklin. The incident occurred on September 7, 2010, at approximately 1600 hours, when PG&E crews were working to repair a gas leak. During the repair, gas service to 1,200 customers was interrupted when the sole source of gas to these customers was removed from service. This interruption occurred because PG&E failed to adequately review system maps before taking actions to isolate parts of its system. This error resulted in</p>
--------------	--

Definition: NOV – Notice of Violation
AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

	<p>extensive relighting of services and costs of approximately \$300,000.</p> <p>PG&E conducted drug and alcohol tests of the three employees involved in the incident at 2232 and 2246 hours on September 7, 2010, approximately six hours after the outage occurred. CP&SD staff reviewed records and noted that PG&E did not prepare and maintain a record stating the reasons why the alcohol tests were not promptly administered as required by Title 49, CFR §199.225 (a)(2)(i). Please advise CP&SD why PG&E tested the three employees late and did not prepare documentation explaining its reasoning for not promptly administering the tests.</p>
--	---

PG&E RESPONSE

<p>PG&E agrees with this finding.</p> <p>As the September 7, 2010 incident unfolded, including the loss of gas service due to the decisions to isolate the leaking main, it was not immediately realized that drug & alcohol testing should be administered. Eventually it was realized, and the tests were administered approximately six hours after the outage occurred. Further, PG&E did not have a procedure to require that the reason for not promptly testing be recorded.</p> <p>On August 31, 2012, PG&E issued a Utility Procedure, TD-4413P-04, "Determining the Scope of Drug and Alcohol Testing for Gas-Related Events" (Attachment 1). This procedure spells out what actions must be taken after a gas-related event, including following a decision analysis to determine whether drug and alcohol testing is required. This procedure was communicated with all gas supervisors in August 2012. PG&E is utilizing the attached Post-Accident Supervisor Record form (Attachment 2) to record why a test may not have been administered promptly. If applicable, the Post-Accident Supervisor Record is attached to our Gas Event Report and retained within that reporting system.</p> <p>To formalize this requirement, PG&E will revise TD-4413P-04 to specify the recording and retention of post-accident testing actions.</p>
--

ATTACHMENTS

Attachment #	Title or Subject
1	TD-4413P-04 D&A Testing for Gas Events
2	Post-Accident Supervisor Record

ACTION REQUIRED

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

Action To Be Taken	Due Date	Completion Date	Responsible Dept.
Include Post-Accident Supervisor Record in TD-4413P-04	June 30, 2013		Regulatory Compliance

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

INSPECTION INFORMATION

Inspection Dates	Finding	CPUC Contact	CPUC Phone #
May 21-23, 2012	AOC – 1	Banu Acimis	(916) 928-3826

INSPECTION FINDING

CPUC Finding	<p>I. <u>Post-accident Testing</u></p> <p>Title 49, CFR §199.105 Drug tests required.</p> <p>Each operator shall conduct the following drug tests for the presence of a prohibited drug:</p> <p>(b) Post-accident testing. As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.</p> <p>CPSD reviewed PG&E's post-accident drug and alcohol test results of reportable gas incidents and noted that it did not prepare a record explaining the reasons for not administering the tests to an employee injured in a November 15, 2008 incident in which gas ignited during a meter replacement. The root cause of this incident was determined to be employee error; however, PG&E's records showed that it did not administer drug or alcohol tests of its employee involved in the incident. CPSD staff requested PG&E to provide records to show why these employees were not drug and alcohol tested. PG&E could not provide any records to justify the decision it made for discounting the performance of its employee as a contributing factor to the incident.</p> <p>Title 49, CFR §§199.105 (b) and 199.225 (a)(1) require post-accident testing for drug or alcohol, respectively, for each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.</p>
--------------	---

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation

General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program

CPSD found that when PG&E did not administer post-accident tests of its employees, it did not document the reasoning supporting its decisions not to administer the tests.

This was not the first time that CPSD has noted this and raised it as a concern with PG&E. The Utilities Safety and Reliability Branch (USRB) of CPSD investigated an incident that occurred on September 28, 2005 in Folsom which resulted in un-vaporized Liquefied Natural Gas (LNG) damaging a girth weld on a distribution feeder main (DFM). USRB determined that human error and lack of test procedures were the causes of the incident. However, PG&E did not conduct post-accident drug tests of contractor personnel operating its LNG facilities after the incident occurred. PG&E did not provide adequate justification for discounting employee performance as being a contributing factor to the incident. In its January 9, 2006 letter to PG&E, USRB stated that per Section 199.105(b), PG&E should have requested post-accident drug testing of contractor personnel operating its LNG facilities at the time of the incident.

On March 9, 2006, PG&E responded in a letter to USRB, stating that it agreed with USRB's determination that the primary factor that contributed to the incident was human error. PG&E also agreed that it did not document its justification for not conducting the post-accident tests. PG&E informed USRB that its management employees who were responsible for LNG operations had been made aware of this finding and requirement.

PG&E needs to support and document its decisions for not administering drug and alcohol tests. CPSD strongly recommends that PG&E add a requirement to its post-accident drug and alcohol testing procedure to document the justifications for not administering post-accident drug and alcohol tests of employees whose performances were determined not to have contributed to the accident. Items to document should include:

- a) Name and title of PG&E company or contractor employees who were involved in the accident,
- b) Name and title of the person who determined that employees' performance was not a contributing factor to the incident,
- c) Date and time of the decision,
- d) Statement of justification which explains the reasons

Definition: NOV – Notice of Violation
AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

	and supporting information that was used to make a decision on why a covered employee's performance could not have contributed to the accident, e)List of individuals who provided information and when (date and time) the information was gathered.
--	--

PG&E RESPONSE

PG&E agrees with this concern. To emphasize and clarify the code requirements noted above, PG&E issued two documents in August 2012:

- 1) Utility Standard HR-6101S: "Company Requirements for Drug and Alcohol Testing". (Attachment 3) This standard sets requirements for determining personnel who are subject to drug and alcohol testing. It also specifies that gas supervisors must receive training on PG&E's DOT Drug Free Workplace Program. See Attachment 4 for an excerpt of the training material.
- 2) Utility Procedure TD-4413P-04: "Determining the Scope of Drug and Alcohol Testing for Gas-Related Events". The procedure sets requirements for applying drug and alcohol testing to personnel involved in a gas-related event. (Attachment 1)

As noted above in our response to NOV-1, PG&E will revise TD-4413P-04 to specify the recording and retention of post-accident testing actions.

ATTACHMENTS

Attachment #	Title or Subject
3	HR-6101S Company Requirements for Drug and Alcohol Testing
4	Post-Accident Process PowerPoint

ACTION REQUIRED

Action To Be Taken	Due Date	Completion Date	Responsible Dept.
Include Post-Accident Supervisor Record in TD-4413P-04	June 30, 2013		Regulatory Compliance

Definition: NOV – Notice of Violation
AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

INSPECTION INFORMATION

Inspection Dates	Finding	CPUC Contact	CPUC Phone #
May 21-23, 2012	AOC – 2	Banu Acimis	(415) 928-3826

INSPECTION FINDING

CPUC Finding	<p>ii. <u>Contractor Employees</u></p> <p>§ 199.115 Contractor employees.</p> <p>With respect to those employees who are contractors or employed by a contractor, an operator may provide by contract that the drug testing, education, and training required by this part be carried out by the contractor provided:</p> <p>(a) The operator remains responsible for ensuring that the requirements of this part are complied with; and</p> <p>(b) The contractor allows access to property and records by the operator, the Administrator, and if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purpose of monitoring the operator's compliance with the requirements of this part.</p> <p>§ 199.245 Contractor employees.</p> <p>(a) With respect to those covered employees who are contractors or employed by a contractor, an operator may provide by contract that the alcohol testing, training and education required by this subpart be carried out by the contractor provided:</p> <p>(b) The operator remains responsible for ensuring that the requirements of this subpart and part 40 of this title are complied with; and</p> <p>(c) The contractor allows access to property and records by the operator, the Administrator, any DOT agency with regulatory authority over the operator or covered employee, and, if the operator is subject to the jurisdiction of a state agency, a representative of the state agency for the purposes of monitoring the operator's compliance with the requirements of this subpart and part 40 of this title.</p>
--------------	--

Definition: NOV – Notice of Violation
AOC – Area of Concern/Recommendation

General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program

	<p>In August, 2007, PG&E contracted with a third party compliance vendor, National Compliance Management Services (NCMS), to verify the compliance of PG&E's contractors with the requirements of 49 CFR Parts 199 and 40. CPDSD noted that PG&E does not have a written procedure to verify the accuracy, completeness, and thoroughness of the work provided by NCMS.</p> <p>CPDSD also noted this finding during its audit of PG&E's Drug and Alcohol Testing Program in July, 2007, as described in USRB's audit letter dated October 5, 2007. On November 1, 2007, PG&E responded in a letter and stated: <i>"PG&E will enhance the quality assurance of its contractors' quality control vendor to ensure PG&E's applicable contractors are complying with the Drug and Alcohol Program as per 49 CFR 199 and 40."</i></p> <p>However, in CPDSD's recent audit, PG&E did not provide a written procedure to describe its quality assurance process of NCMS' compliance verification system. CPDSD discussed this finding with PG&E representatives during the audit and they agreed to add a written procedure to its plans to describe the details of the quality control and assurance processes of its third party compliance vendor to ensure that all of its contractors are in compliance with 49 CFR Parts 199 and 40.</p>
--	---

PG&E RESPONSE

PG&E agrees with this concern. PG&E's Senior DOT Program Manager performs this quality assurance process and utilizes the write-up below as a guide. This write-up was shared with CPDSD on June 25, 2012. PG&E plans to issue a Utility Procedure describing this process by July 1, 2013.

Quality Control and Assurance of Contractors' Drug and Alcohol Testing Program Process

Contractors shall timely provide all necessary reporting and other required documents so as to remain in compliance with the requirements of the CPUC, DOT and all other applicable agencies. Contractor's failure to comply with these reporting and documentation requirements may result in corrective measures, including but not limited to suspension of work or termination of the contract. Contractors shall coordinate and provide copies of all reports and documentation to PG&E's compliance vendor National Compliance Management Services (NCMS). Current DOT reports and reporting timelines are as stated and summarized below. Consult the applicable DOT requirements for more specific information.

Quarterly Reports (required from NCMS to PG&E only if there have been changes

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

from the previous quarter)

- Drug and Alcohol Misuse Plan
- Supervisor Reasonable Suspicion Training
- Employee training materials
- Third Part Administrator verification (TPA)
- Pre-employment screening process
- Random Selection notification and selection processes
- Post-accident testing requirements
- Reasonable Suspicion testing requirements and documentation
- Return to duty & follow up testing protocol and procedure

Yearly Reports (required from NCMS to PG&E)

- Examination of yearly MIS reports
- Clinical examination regarding the collection process
- Clinical Technical Certifications
- Laboratory certifications and protocol
- Designated Employee Representative information

DOT Program Manager (DER) Responsibilities

Review all quarterly and annual reports for accuracy

ATTACHMENTS

Attachment #	Title or Subject
None	

ACTION REQUIRED

Action To Be Taken	Due Date	Completion Date	Responsible Dept.
Issue Utility Procedure on the quality assurance process to ensure compliance of NCMS compliance verification	July 1, 2013		DOT & Regulatory Compliance

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation

**General Order 112-E Findings
CPUC Inspection Report, dated December 21, 2012
Drug and Alcohol Program**

system			
--------	--	--	--

Definition: NOV – Notice of Violation
 AOC – Area of Concern/Recommendation