

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 21, 2012

GA2012-07

Ms. Jane Yura, Vice President
Pacific Gas and Electric Company
Gas Operations – Standards and Policies
P.O. Box 770000, Mailcode N15F
San Francisco, CA 94177

Subject: General Order 112-E Audit of PG&E's Drug and Alcohol Testing Program

Dear Ms. Yura:

On behalf of the Consumer Protection and Safety Division (CPSD) of the California Public Utilities Commission, Banu Acimis, Fred Hanes, and Alin Podoreanu conducted an audit of Pacific Gas and Electric Company's (PG&E) Drug and Alcohol Testing Program on May 21-23, 2012. The audit consisted of an evaluation of PG&E's Anti-Drug and Alcohol Misuse Prevention Plans and an examination of drug and alcohol test records. CPSD also audited PG&E's specimen collection and testing sites in Hayward and Concord. A Summary of Audits Findings (Summary), which contains probable violations and areas of concerns and recommendations identified during CPSD's audit, is included as an attachment to this letter.

Please provide a written response indicating the measures taken by PG&E to address the probable violations and areas of concerns and recommendations within 30 days from the date of this letter. CPSD will notify PG&E of the enforcement actions it plans to take in regard to each of the violations found during the audit, pursuant to Commission Resolution ALJ-274, after it has an opportunity to review PG&E's response to the findings included in the Summary.

For any questions related to this matter, please contact Banu Acimis at (916) 928-3826 or by email at banu.acimis@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Robertson".

Michael Robertson, Program Manager
Gas Safety and Reliability Branch
Consumer Protection and Safety Division
California Public Utilities Commission

Enclosure: Summary of Inspection Findings

cc: Bill Gibson, PG&E
Larry Berg, PG&E
Monica Spurlock, PG&E
Kathy Ocegüera, PG&E

Summary of Inspection Findings Probable Violations

I. Post-accident Testing

Title 49, Code of Federal Regulations (CFR), §199.225 Alcohol tests required.

Each operator shall conduct the following types of alcohol tests for the presence of alcohol:

(a) *Post-accident.* (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.

(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.

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 extensive relighting of services and costs of approximately \$300,000.

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. CPSD 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 CPSD why PG&E tested the three employees late and did not prepare documentation explaining its reasoning for not promptly administering the tests.

Areas of Concerns and Recommendations

I. Post-accident Testing

Title 49, CFR §199.105 Drug tests required.

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

(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.

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.

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. 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 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.

II. Contractor Employees

§ 199.115 Contractor employees.

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:

- (a) The operator remains responsible for ensuring that the requirements of this part are complied with; and
- (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.

§ 199.245 Contractor employees.

- (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:
- (b) The operator remains responsible for ensuring that the requirements of this subpart and part 40 of this title are complied with; and
- (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.

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. CPSD noted that PG&E does not have a written procedure to verify the accuracy, completeness, and thoroughness of the work provided by NCMS.

CPSD 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: "*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.*"

However, in CPSD's recent audit, PG&E did not provide a written procedure to describe its quality assurance process of NCMS' compliance verification system. CPSD 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.