

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 22, 2023

GI-2023-10-SDG-53-06

Mr. Rodger Schwecke
Senior Vice President and Chief Infrastructure Officer
Southern California Gas Company
555 West 5th Street, GT21C3
Los Angeles, CA 90013

Dear Mr. Schwecke:

The Safety and Enforcement Division (SED) of the California Public Utilities Commission conducted a General Order (G.O.) 112-F Inspection of San Diego Gas & Electric's (SDG&E) Anti-Drug and Alcohol Prevention Program (Inspection Unit) on October 2 through October 5, 2023. SED staff reviewed SDG&E's written procedures and conducted a field observation pursuant to G.O. 112-F, Reference Title 49, Code of Federal Regulations (CFR), Parts 199 and 40. The inspection also included a review of SDG&E's records from calendar years 2019 to 2022.

SED's staff used the Pipeline and Hazardous Materials Safety Administration's (PHMSA), Office of Pipeline Safety's "Inspection Assistance" (IA) as a reference guide to conduct this inspection.

SED's staff did not identify any probable violations of G.O. 112-F, Reference Title 49 Code of Federal Regulations (CFR), Parts 199 and 40, but noted six (6) areas of concern which are described in the attached "Post-Inspection Written Preliminary Findings".

On November 2, 2023, SDG&E provided SED with its written corrective action plan. As a result, **SED reviewed SDG&E's corrective action plan and determined that SDG&E's response is satisfactory and considers this inspection to be closed.**

Thank you for your cooperation in this inspection. If you have any questions, please contact Randy Holter, Senior Utilities Engineer (Specialist), at (213) 576-7153 or by email at randy.holter@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Terence Eng".

Terence Eng, P.E.
Program Manager
Gas Safety and Reliability Branch
Safety and Enforcement Division

Attachments: see Post-Inspection Written Preliminary Findings
cc: see next page.

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Post-Inspection Written Preliminary Findings

Date of Transmittal: 11/15/2023

Dates of Inspection: October 2 to October 5, 2023

Operator: SAN DIEGO GAS & ELECTRIC CO

Operator ID: 18112 (primary)

Inspection Systems: Anti-Drug and Alcohol Prevention Program

Assets (Unit IDs) with results in this report:

SDG&E's Main Office Inspection – Transmission (88389) 53A

SDG&E's Main Office Inspection – Distribution (88390) 53B

System Type: DA

Inspection Name: SDG&E Drug & Alcohol

Lead Inspector: Randy Holter

Unsatisfactory Results

No Preliminary Findings.

Concerns

Drug and Alcohol : Anti-Drug Program (DA.DRUG)

1. Question Medical Review Officer (MRO) Duties, DA.DRUG.MRODUTIES.P
Title, ID

Question 10. Does the process ensure the MRO performs functions as required by DOT Procedures?

References 199.109(c) (199.109(a), 40.123(a), 40.123(b), 40.123(c), 40.123(e), 40.123(f), 40.123(g), Part 40 Subpart G)

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's *Anti-Drug and Alcohol Misuse Prevention Plan (Plan)*, Subpart B - Drug Testing, Review of drug testing results - (199.109) - part (c) that states:

"MRO duties. The MRO must perform functions for the operator as required by DOT Procedures."

Title 49 CFR, Part 40, §40.123 states:

"As an MRO, you have the following basic responsibilities:

- (a) Acting as an independent and impartial "gatekeeper" and advocate for the accuracy and integrity of the drug testing process.*
- (b) Providing a quality assurance review of the drug testing process for the specimens under your purview. This includes, but is not limited to:*
 - (1) Ensuring the review of the CCF on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be cancelled (see §§ 40.199–40.203). As an MRO, you are not required to review laboratory internal chain of custody documentation. No one is permitted to cancel a test because you have not reviewed this documentation;*
 - (2) Providing feedback to employers, collection sites and laboratories regarding performance issues where necessary; and*
 - (3) Reporting to and consulting with the ODAPC or a relevant DOT agency when you wish DOT assistance in resolving any program issue. As an employer or service agent, you are prohibited from limiting or attempting to limit the MRO's access to DOT for this purpose and from retaliating in any way against an MRO for discussing drug testing issues with DOT.*
- (c) You must determine whether there is a legitimate medical explanation for confirmed positive, adulterated, substituted, and invalid results from the laboratory.*
- (d) While you provide medical review of employees' test results, this part does not deem that you have established a doctor-patient relationship with the employees whose tests you review.*
- (e) You must act to investigate and correct problems where possible and notify appropriate parties (e.g., HHS, DOT, employers, service agents) where assistance is needed, (e.g., cancelled, or problematic tests, incorrect results).*
- (f) You must ensure the timely flow of test results and other information to employers.*
- (g) You must protect the confidentiality of the drug testing information.*

(h) You must perform all your functions in compliance with this part and other DOT agency regulations.”

The Plan failed to reference that the MRO has to follow the basic responsibilities in the DOT drug testing program, Title 49 CFR, Part 40, §40.123. SED recommends that SDG&E to reference in its Plan the MRO’s basic responsibilities as stated in the Tile 49, CFR, Part 40, §40.123.

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

“The MRO will follow all basic responsibilities in the DOT drug testing program as required per Title 49 CFR §40.123.”

As a result, **SED determined that SDG&E’s response is satisfactory and considers this item to be closed.**

2. Question MRO Drug Test Reports to the Operator, DA.DRUG.MROTESTREPORTS.P
Title, ID

Question 11. Does the process ensure the MRO reports all drug test results to the DER as required?

References 199.109(d) (Part 40 Subpart G, 40.345(a), 40.345(b), 40.345(c), 40.355(b), 40.355(c))

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's *Anti-Drug and Alcohol Misuse Prevention Plan* (Plan), Subpart B - Drug Testing, Review of drug testing results - (199.109) - Part (d) that states in part:

“MRO reports. The MRO must report all drug test results to The Company in accordance with DOT Procedures...”

Title 49 CFR, Part 40, §40.165 states:

“As the MRO, you must report all drug test results to the DER, except in the circumstances provided for in §40.345”

The Plan failed to reference Title 49 CFR, Part 40, §40.165 and to report all drug test results to the DER, except in the circumstances provided for in §40.345. SED recommends that SDG&E to reference in its Plan, Title 49 CFR, Part 40, §40.165, that MRO must report all drug test results to the DER, except in the circumstances provided for in §40.345.

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

"MRO will report all drug test results to the Company's DER except in the circumstances provided for in §40.345."

As a result, **SED determined that SDG&E's response is satisfactory and considers this item to be closed.**

Drug and Alcohol: Alcohol Misuse Prevention Program (DA.ALCOHOL)

3. Question Alcohol Screening Test Devices,
Title, ID DA.ALCOHOL.SCREENINGTESTDEVICES.P

Question 4. Does the process for alcohol screening tests restrict the use of alcohol screening devices (ASDs) to the devices and associated requirements referenced by Part 40?

References 40.229 (40.235(e))

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's *Anti-Drug and Alcohol Misuse Prevention Plan (Plan)*, Subpart C - Alcohol Misuse Prevention Plan, and found that the Plan did not have any procedure restricting the use of Approved Screening Devices (ASDs) to those listed only on the ODAPC web page, per Title 49 CFR, Part 40, §40.229, which states:

"ASDs listed on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" and EBTs listed on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" are the only devices you are allowed to use to conduct alcohol screening tests under this part. You may use an ASD for DOT alcohol tests only if there are instructions for its use in this part. An ASD can be used only for screening tests for alcohol and must not be used for confirmation tests."

SDG&E's Plan failed to address the required ASD's restriction per Title 49 CFR, Part 40, §40.229. SED recommends that SDG&E revise its Plan to address the required ASD's restriction in Title 49 CFR, Part 40, §40.229.

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

"Approved Alcohol Screening Devices (ASD)" as required per Title 49 CFR, Part 40, §40.229."

As a result, **SED determined that SDG&E's response is satisfactory and considers this item to be closed.**

Question Title, ID Alcohol Confirmation Test Devices,
DA.ALCOHOL.CONFIRMATIONTESTDEVICES.P

4. Question 5. Does the process for alcohol confirmation tests restrict the use of Evidential Breath Testing Devices (EBTs) to the devices and associated requirements referenced by Part 40?

References 40.231(a) (40.233(c))

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's Anti-Drug and Alcohol Misuse Prevention Plan (Plan), Subpart C - Alcohol Misuse Prevention Plan, and found that the Plan did not have any procedure restricting the use of Approved Evidential Breath Testing Devices (EBTs) to those listed only on the ODAPC web page, per Title 49 CFR §40.231(a), which states:

"EBTs on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" that meet the requirements of paragraph (b) of this section are the only devices you may use to conduct alcohol confirmation tests under this part."

SDG&E's Plan failed to address the required restriction when using approved Evidential Breath Testing Devices (EBTs) as required per Title 49 CFR, Part 40, 40.231(a). SED recommends adding wording specifically pertaining to 49 CFR §40.231 regarding approved Evidential Breath Testing Devices (EBTs).

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

"Approved Evidential Breath Testing Devices (EBTs) – (§40.231)"

As a result, **SED determined that SDG&E's response is satisfactory and considers this item to be closed.**

Question Title, ID BAT/STT Alcohol Screening Test Reports,
DA.ALCOHOL.SCREENINGTEST.P

5. Question 11. Does the process ensure that alcohol screening test results are reported as required to the DER?

References 40.247(a)

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's Anti-Drug and Alcohol Misuse Prevention Plan (Plan), Subpart C - Alcohol Misuse Prevention Plan, and found that the Plan did not have any procedures ensuring that alcohol screening test results are reported as required to the DER, in accordance with 49 CFR §40.247(a), which states:

"If the test result is an alcohol concentration of less than 0.02, as the BAT or STT, you must do the following:

(1) Sign and date Step 3 of the ATF; and

(2) Transmit the result to the DER in a confidential manner, as provided in § 40.255.”

SDG&E’s Plan failed to state the requirement that alcohol screening test results must be reported to the DER, as required per Title 49 CFR §40.247(a). SED recommends that SDG&E revise its Plan to address the requirements of 49 CFR §40.247(a).

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

"Required Reporting Alcohol Test to DER– (§40.247)"

As a result, **SED determined that SDG&E’s response is satisfactory and considers this item to be closed.**

Question Title, ID BAT Alcohol Confirmation Test Reports,
DA.ALCOHOL.CONFIRMATIONTEST.P

6. Question 12. Does the process ensure that alcohol confirmation test results are reported as required to the DER?

References 40.255(a) (40.355(d))

Assets Covered SDGE - DA - T - Procedures (Procedures (53A))

Issue Summary SED reviewed SDG&E's Anti-Drug and Alcohol Misuse Prevention Plan (Plan), Subpart C - Alcohol Misuse Prevention Plan, and found that the Plan did not have any procedure ensuring that the alcohol confirmation test results are reported as required to the DER, per Title 49 CFR §40.255(a), which states:

“After the EBT has printed the result of an alcohol confirmation test, you must, as the BAT, take the following additional steps:

(1) Sign and date Step 3 of the ATF.

(2) If the alcohol confirmation test result is lower than 0.02, nothing further is required of the employee. As the BAT, you must sign and date Step 3 of the ATF.

(3) If the alcohol confirmation test result is 0.02 or higher, direct the employee to sign and date Step 4 of the ATF. If the employee does not do so, you must note this on the “Remarks” line of the ATF. However, this is not considered a refusal to test.

(4) If the test is invalid, tell the employee the test is cancelled and note the problem on the “Remarks” line of the ATF. If practicable, conduct a re-test. (see §40.471).

(5) Immediately transmit the result directly to the DER in a confidential manner.

- (i) *You may transmit the results using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, you must immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. You must not transmit these results through C/TPAs or other service agents.*
- (ii) *If you do not make the initial transmission in writing, you must follow up the initial transmission with Copy 1 of the ATF.”*

SDG&E’s Plan failed to state the requirement that alcohol confirmation test results must be reported to the DER, as required per Title 49 CFR, Part 40, §40.255(a). SED recommends that SDG&E revise its Plan to provide a written requirement stating alcohol confirmation test results must be reported to the DER, in accordance with Title 49 CFR, Part 40, §40.255(a).

On November 2, 2023, SDG&E provided SED with a revised Plan (dated 11.1.2023) that states:

“In agreement with Title 49 CFR, Part 40, §40.255, service agents will take the following measures to report alcohol confirmation test result to the Company’s DER.”

As a result, **SED determined that SDG&E’s response is satisfactory and considers this item to be closed.**