

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 14, 2022

Mr. Michael Lamond
CFO/Administrator
(209) 772-3006
P.O. Box 550
Valley Springs, California 95252

GI-2022-10-ANG-35-06-07

SUBJECT: Operator Qualification and Anti-Drug & Alcohol Misuse Program Inspections for Alpine Natural Gas

Dear Mr. Lamond:

On behalf of the Safety and Enforcement Division (SED) of the California Public Utilities Commission (CPUC), Victor Muller, Yang "Rocky" Yi, and Nicholas Peno conducted a General Order 112-F inspection of Alpine Natural Gas's (ANG) Operator Qualification and Anti-Drug & Alcohol Misuse programs from October 10th through October 14th, 2022. The inspection included a review of ANG's records and procedures for the period of 2019 through 2021.

SED's findings are noted in the Post-Inspection Written Findings (Summary) which is enclosed with this letter. The Summary reflects only those particular records and procedures that SED inspected during the inspection. SED discovered three (3) violations and five (5) concerns during this inspection.

Within 30 days of your receipt of this letter, please provide a written response indicating the measures taken by ANG to address the violations and concerns noted in the Summary.

If you have any questions, please contact Victor Muller at (916) 327-6780 or by email at victor.muller@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

Enclosure: Post-Inspection Written Findings

cc: Claudia Almengor, SED

Post-Inspection Written Findings

Dates of Inspection: 10/10/2022-10/14/2022

Operator: ALPINE NATURAL GAS

Operator ID: 31515 (primary)

Inspection Systems: ANG

Assets (Unit IDs) with results in this report: Alpine (87544)

System Type: DA

Inspection Name: 2022 Alpine Natural Gas D&A

Lead Inspector: Victor Muller

Operator Representative: Michael Lamond

Unsatisfactory Results

Drug and Alcohol : General Program Requirements (DA.GENERAL)

Question Title, ID DOT vs. Non-DOT D&A Tests, DA.GENERAL.NONDOTTESTS.P

Question 5. Does the process separate and prioritize DOT drug and alcohol testing over all non-DOT drug and alcohol testing?

References 40.13(a) (40.13(b))

Assets Covered Alpine (87544 (35))

Issue Summary Title 49 Code of Federal Regulations (CFR) §40.13(f) states:

(f) As an employer, you must not use the CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests.

During this inspection, SED discovered that ANG has been using the Department of Transportation (DOT) Alcohol Transfer Form (ATF) for all alcohol testing, including the random alcohol testing outlined in Article V.C of ANG's Drug & Alcohol (D&A) Policy. Random alcohol testing is not required by Parts 199 or 40. Therefore, random alcohol tests are non-DOT tests. SED finds ANG in violation of Title 49 CFR §40.13(f) for using the DOT ATF for non-DOT tests. ANG must ensure that the DOT ATF and the Federal Drug Testing Custody and Control Form (CCF) are not being used for non-DOT tests.

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

Question Title, ID Random Drug Testing, DA.DRUG.RANDOM.P

Question 6. Does the process ensure that random drug testing is conducted as required?

References 199.105(c)(5) (199.105(c)(6), 199.105(c)(7), 199.105(c)(8), 199.105(c)(9))

Assets Covered Alpine (87544 (35))

Issue Summary Title 49 CFR §199.105(c)(1) states:

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

(c) Random testing.

(1) Except as provided in paragraphs (c)(2) through (4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued docket number PHMSA-2020-0135 establishing the minimum random drug testing rate for 2021 at 50%. ANG's Management Information System (MIS) report for 2021 shows that 1 of 3 covered employees were randomly tested. SED finds ANG in violation of Title 49 CFR §199.105(c)(1) for failure to meet the minimum annual percentage rate for random drug testing.

Additionally, Article V.C of ANG's D&A plan states in part, "C. Random Testing. Company may conduct random alcohol and drugs tests." Title 49 CFR §199.105(c)(1) establishes that it is mandatory for ANG to perform random drug testing. SED recommends that ANG revise their D&A policy to indicate that ANG will/shall/must conduct random drug testing.

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

Question Title, ID Alcohol Misuse Program Educational Materials Content, DA.ALCOHOL.EDUCATIONCONTENT.R

Question 16. Do records indicate the alcohol misuse educational materials provided by the operator included the required content?

References 199.239(b)

Assets Covered Alpine (87544 (35))

Issue Summary Title 49 CFR §199.239(b)(5) states:

(b) Required content. The materials to be made available to covered employees shall include detailed discussion of at least the following:

(5) The circumstances under which a covered employee will be tested for alcohol under this subpart.

Article V.C of ANG's D&A policy states that the "Company may conduct random alcohol and drugs tests." Random alcohol testing is not required by Subpart C of Part 199 or Parts 40 and 199. Random alcohol tests performed by an operator are therefore non-DOT tests. ANG's D&A policy does not clearly identify random alcohol tests as non-DOT tests, nor do any of the other educational materials provided by ANG. SED finds ANG in violation of Title 49 CFR §199.239(b)(5) for failure to communicate to covered employees under which circumstances they are subject to DOT testing.

Concerns

Drug and Alcohol : General Program Requirements (DA.GENERAL)

Question Title, ID Previous Employer DOT D&A Record Checks, DA.GENERAL.PREVIOUSEMPLOYERRECORDS.P

Question 4. Does the process include previous employer DOT D&A record checks for employees seeking to perform covered functions for the first time (i.e., a new hire or an employee transferring into a safety-sensitive position)?

References 40.25(a) (40.25(b), 40.25(c), 40.25(d), 40.25(e), 40.25(f), 40.25(g), 40.27, 40.321(b), 40.351(d))

Assets Covered Alpine (87544 (35))

Issue Summary ANG's D&A policy does not contain requirements for ANG to get written consent per Title 49 CFR §40.25(a) from new or transferred employees prior to requesting the required information listed in Title 49 CFR §40.25(b) from a previous employer. SED understands that ANG has not employed anyone

to perform covered tasks that worked for a DOT-regulated employer within 2 years of being employed by ANG, but SED recommends that ANG amend their D&A policy to ensure future compliance with Title 49 CFR §40.25(a).

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

Question Title, ID Prohibited Drugs, DA.DRUG.PROHIBITEDDRUGS.P

Question 3. Does the process require that DOT drug tests are only conducted for the "prohibited drugs" specified in Part 40?

References 199.3 (40.3)

Assets Covered Alpine (87544 (35))

Issue Summary Title 49 CFR §40.3 defines the term "drugs" as used in Part 40 and Title 49 CFR §40.85, in 5 categories of drugs that DOT samples may be tested for. From Title 49 CFR §40.85:

As a laboratory, you must test for the following five drugs or classes of drugs in a DOT drug test. You must not test "DOT specimens" for any other drugs.

(a) Marijuana metabolites.

(b) Cocaine metabolites.

(c) Amphetamines.

(d) Opioids.

(e) Phencyclidine (PCP).

Article III(b)(2) of ANG's D&A policy defines Illegal drugs and substances as including, "...drugs which are not legally obtainable, like marijuana, cocaine, amphetamines, designer drugs, "controlled substances," and drugs which are legally obtainable but have been obtained illegally (for example, using drugs prescribed for some one else)."

ANG verbally confirmed that ANG does not test for any drugs beyond the five classes specified in Part 40, and SED recognizes that ANG may require that employees not use or possess illegal drugs and substances as defined by ANG's D&A policy, including those omitted by Part 40, as a condition of employment. However, the policy does not otherwise clarify which drugs DOT samples are tested for and there may be an implication that ANG's more expansive list of illegal drugs are tested for by ANG instead of the 5 classes of drugs required by Part 40. SED recommends that ANG revises their policy to clarify that ANG's DOT drug tests only test for the required classes of drugs.

Question Title, ID Reasonable Cause Drug Testing, DA.DRUG.REASONABLECAUSE.P

Question 7. Does the process ensure that reasonable cause drug testing is conducted as required?

References 199.105(d) (199.117(a)(3), 40.355(g), 40.355(h))

Assets Covered Alpine (87544 (35))

Issue Summary Article V.F of ANG's D&A Policy states that the "Company's representative" will justify reasonable cause drug testing. Title 49 CFR §199.105(d) requires a trained supervisor to justify reasonable cause drug testing. SED recommends that ANG better define the term "Company representative" to ensure compliance with Title 49 CFR §199.105(d).

Question Title, ID Follow-Up Drug Testing, DA.DRUG.FOLLOWUPTTEST.P

Question 9. Does the process ensure that follow-up drug testing is conducted as required?

References 199.105(f) (40.67(b), 40.307, 40.309)

Assets Covered Alpine (87544 (35))

Issue Summary ANG verbally indicated that ANG has not had an employee return-to-duty and therefore has not performed follow-up testing.

Articles V and VI of ANG's D&A Policy outline the requirements for an employee to return-to-duty, but do not detail the requirements of parts 199 and 40 for follow-up afterwards. There are statements within these articles that ANG will follow the requirements of Title 49 CFR Part 40, Subpart O, but those statements are accompanied by insufficient details. SED recommends that ANG add details to Article VI of their D&A Policy regarding when follow-up testing will be required and outlining the responsibility of the

Substance Abuse Professional (SAP) in determining the number and frequency of tests per Title 49 CFR §199.105(f) and §199.225(d) to ensure future compliance with those code sections.

Training and Qualification : Operator Qualification (TQ.OQ)

Question Title, ID Notification of Significant Plan Changes, TQ.OQ.CHANGENOTIFY.P

Question 1. Does the process require significant OQ program changes to be identified and the Administrator or State agency notified?

References 192.805(i) (192.18)

Assets Covered Alpine (87544 (35))

Issue Summary Part Ten of ANG's Operator Qualification (OQ) plan states that ANG will notify the CPUC if a change is "deemed major". However, the process does not define what the major changes are. SED recommends that ANG add processes to their OQ plan that identify "significant" changes to ensure future compliance with Title 49 CFR §192.805(i).