

West Coast Gas
Incorporated

January 31, 2014

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Ms. Acimis:

Our response to the SED report dealing with WCG's PAP, OQ, DIMP, and ADT Programs are enclosed and represents our good faith effort to respond in a serious and factual way to the SED report. We have attached 2 separate pdf files to this response. Again, we want to thank the SED staff for their work and guidance in aiding WCG to improve its overall O&M function.

Yours Truly

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West Coast Gas Company
Response to November 2013 Report
Response of WCG to SED
January 31, 2014

Public Awareness Program

SED reviewed WCG's Public Awareness Program (PAP) and found the following deficiencies:

I- Title 49, CFR, §192.616 Public awareness.

(a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) recommended Practice (RP) 1162 (IBR, see §192.7).

(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

SED noted that WCG's PAP does not contain an assessment of unique attributes and characteristics of the operator's pipeline and facilities.

WCG must include a map of its gas distribution systems and describe types and characteristics of its pipeline system in its PAP.

Response:

WCG will include a *more expansive* description of its natural gas distribution system in the April 15, 2014 revision of its PAP. WCG will include maps of its systems in a simplified form that can be more readily understood by first responder and the general public.

1. Part H, Annual Internal Audit of WCG's PAP states "WCG will maintain detailed records of its Public Awareness Program. Files will be maintained on each bill stuffer mailing, meeting with emergency response agencies and contacts with

contractor/excavator within WCG's service territory. On an annual basis (February of the following year), WCG will prepare an internal audit of its Public Awareness Program activities. The audit will summarize and verify that the activities listed in the WCG PAP have been carried out."

WCG's PAP proposes annual audits of its PAP activities; however, WCG did not perform any audits of its PAP in 2010 and 2012.

WCG must identify and document necessary changes and/or modifications to its PAP based on the results and findings of its annual internal audit of program effectiveness evaluation.

Response:

WCG will begin recording the results of WCG's annual review of its PAP starting in April 2014 and every April thereafter.

2. WCG PAP also states *"In addition, the audit report will include feedback from the public on the effectiveness of WCG program and any changes in the program for the upcoming year. The primary method to gain insight on the effectiveness of the WCG PAP will be a sample set of written and oral interviews of WCG customers, facility managers at Mather and Castle Airport, emergency officials, first responders and local government officials.*

The objective of the survey is to determine if the baseline message was understood, that it included information that was relevant and useful to the target audience, and to gain insights on how the baseline message can be improved. WCG will conduct oral interviews with stakeholders primarily by phone and the internet. Based on the results of those interviews, WCG will adjust its message and means of communication to insure that its PAP accomplishes the stated goal of increased public awareness."

SED determined that WCG neither conducted any survey nor performed any periodic evaluation of its PAP's implementation and effectiveness to ensure that its PAP accomplishes the stated goal of increased public awareness. Additionally, WCG did not assess the percentage of the intended stakeholders that understood and retained the key information in the messages received.

WCG will institute a written survey of at least one element of the program each year and maintain record of survey.

WCG must conduct an effectiveness evaluation of its PAP and document the method used to perform the evaluation such as internal assessment, by third party contractor review, regulatory inspections, etc., and maintain records.

Response:

WCG will begin a written survey of at least one element of the PAP program each year starting in 2014. This survey will be conducted internally by WCG and records will be maintained.

SED also noted that WCG's PAP does not clarify whether or not all stakeholders are contacted to fill out effectiveness survey. If WCG does not cover 100 % of stakeholders for the survey, then WCG should justify the statistical sampling.

WCG must also identify how it determines the sample size for audiences in performing its effectiveness evaluation.

Response:

WCG is a relatively small utility with only 1,500 customers. WCG believes it can create a survey that is statistically significant if it receives responses from at least 10% of its customer base.

1. SED also noted that there was no documentation demonstrating that WCG established and maintained liaison with appropriate fire, police, and other public officials to learn the responsibility and resources of each government organization that may respond, acquaint the officials with the operator's ability in responding to a pipeline emergency, identify the types of pipeline emergencies of which the operator notifies the officials, and plan how the operator and other officials can engage in mutual assistance to minimize hazards to life or property.

WCG must confirm and track actual PAP outreach for each stakeholder and systems covered by its program.

WCG must also consider measuring affected public's perception of the safety of the operator's pipeline, bottom-line results of its PAP by tracking third-party incidents and consequences including: near misses, excavation damages resulting in pipeline failures, and excavation damages that do not result in pipeline failures.

Response:

WCG does reach a majority of its stakeholders through quarterly bill stuffers and maintains a record of its activities. WCG has sent information packages to police and fire agencies. However, WCG will become more aggressive in working with police and fire agencies that would respond to any natural gas emergency at either Mather or Castle. As noted in our January 25, 2014 response to SED, we plan on holding field exercises with the sheriffs' departments and fire departments in the summer and fall of 2014.

WCG's PAP does not contain any provisions of advising affected municipalities, school districts, businesses, and residents of pipeline facility locations as required CFR, §192.616 (e).

WCG's PAP stated that it identified a noncustomer entity, office building and the Mather airport runway, which are located near WCG's pipeline facility and proposed to provide information to the Mather Airport manager; however, it did not specify the frequency of the informational mail.

According to API RP 1162, Baseline Recommended Message Deliveries referenced in CFR, §192.616, WCG must provide information to residents along its local distribution system on an annual basis, see Table 3 below.

Table 3- Comparison of API RP 1162 Baseline* Recommended Message Deliveries with WCG's PAP

Stakeholder Audience (LDCs)	Baseline Message Frequency (starting from effective date of Plan)	WCG Public Awareness Message Frequency
Residents Along Local Distribution System	Annual	N/A
LDC Customers	Twice annually	Twice annually
Emergency Officials	Annual	Annual
Public Officials	3 years	3 years
Excavator and Contractors	Annual	Constant or Annual
One-Call Centers	As required of One-Call Center	N/A

* Refer to API RP 1162 for additional requirements, including general program recommendations, supplemental requirements, recordkeeping, program evaluation, etc.

WCG must establish methods and include activities into its PAP to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.

WCG must document the message type and content, and delivery method and frequency for each stakeholder audience. Additionally, WCG's PAP documentation must properly and adequately reflect implementation of its PAP requirements.

Response:

WCG does in fact give our baseline message as well as quarterly bill stuffers to each and every WCG customer along our local distribution system and we maintain records to that effect. All of the residents in our service territory are both “Residents Along Local Distribution system” and LDC customers with one or two possible exceptions at Mather. We constantly remind all of our customers and any contractors that are excavating within our service territory that the State of California requires them to contact the One-Call Center (USA Underground) before they begin any excavation. In addition, we inform our residential customers that they call WCG directly and we will be happy to locate our gas lines within 24 hours. However, WCG will identify and include in its PAP program any entity within its service territory who is NOT a customer of WCG.

WCG has been a member of a “one-call center” since the day it began operations and maintains records of locates.

As to anyone (residents or businesses) who is not located within our service area, with the sole exception of first responders, that responsibility lies with the utilities that serve them.

OPERATOR QUALIFICATION

AREAS OF VIOLATIONS

Subpart N–Qualification of Pipeline Personnel

SED evaluated WCG Operator Qualification (OQ) Plan and found the following deficiencies:

1. WCG’s OQ Plan does not have a complete list of covered tasks as required by CFR, §192.805 (a). WCG included a list of Covered Staff Job Descriptions; however, these job descriptions do not match the training and qualification records that WCG maintains.

SED found that WCG’s OQ Plan does not define covered task specific Abnormal Operation Conditions (AOC).

SED determined that this is a repeat violation which CPSD previously identified as a result of its audits conducted in 2007 and 2009.

On June 10, 2009, CPSD's audit letter sent to WCG stated the following:

"WCG OQ plan does not have any list of Abnormal Operating Conditions (AOC) for each covered task described in Section 192.801 (b)."

WCG needs to identify general and task specific AOCs for each covered task in its OQ plan. This is a repeat violation which was previously identified by Mr. Shori as a result of USRB's gas safety audit conducted in 2007."

Response:

WCG will expand the number of AOC for each covered task in its OQ Plan.

On July 22, 2009, in its GO 112-E audit response letter to CPSD, WCG stated the following:

"While WCG O&M Plan does have examples of AOC for many of its covered tasks, we agree that it will be useful to list AOCs under each covered task listed in Part Q (Attachment 6) and we will update to include these examples under each covered task by August 2009."

SED determined that WCG has not taken the necessary corrective action; therefore, WCG is still not in compliance with Subpart N requirements of CFR, Part 192, even though CPSD identified the same deficiency in WCG's OQ Plan twice in past audits.

WCG must identify all covered tasks in its OQ Plan defined by CFR, §192.801 (b) which its employees and contractors perform on its gas pipeline system.

Additionally, WCG must also identify all covered task specific AOCs that may reasonably be anticipated and establish provisions to train covered employees on how to recognize and appropriately react to the AOCs for the purpose of qualifying individuals.

Response:

WCG agrees that it failed to follow-up and include examples of AOC under each task listed in Part Q (Attachment 6). This failure will be corrected in its April 15 filing of its revised OQ Plan.

2. WCG's OQ Plan does not have any provisions to require its contractors be OQ qualified when performing covered task on behalf of WCG.

SED determined that WCG also failed to establish provisions to communicate the OQ plan to contractors and ensure that contractors are following the OQ plan.

This is a repeat violation which CPSD also identified as a result of its 2005 and 2009 gas safety audits.

On June 10, 2009, CPSD's audit letter sent to WCG stated the following:

“WCG did not provide qualification records for some of the contractors it hired to perform certain tasks related to its gas system. WCG must qualify all contractors performing covered tasks on its gas system in accordance with its OQ Plan. In addition, WCG needs to review and approve each contractor's OQ Plan and qualification records for the covered tasks they perform...”

This is a repeat violation which was previously identified by Mr. Carter as a result of USRB's gas safety audit conducted in 2005.”

WCG must have provisions in its OQ Plan to require its contractors to either follow its OQ Plan or WCG can approve the contractors' OQ plan and require contractors to evaluate employees' performance and provide qualification records for the covered tasks that they are hired to perform on WCG's gas pipeline system.

SED also noted that WCG did not identify its contractors in the plan.

For example, Heath Consultant conducts gas leak surveys for WCG; however, the OQ plan did not identify this contractor.

Response:

WCG only uses a single contractor on a regular basis to perform covered tasks – Heath Consultants performs a leak survey of Mather and Castle every three years. We do have his qualifications on file and they should have been shared with SED staff (see prior WCG Response in O&M Plan). On occasion, we have used a welding contractor and we have gotten copies of their welding certificates. However, we will include a written requirement in the OQ Plan that contractors provide both qualifications for the covered task to be performed and proof that the individual is drug tested.

WCG did not have any OQ records for its part-time employee, Evan Rahilly, who WCG employed to respond to gas emergencies in its pipeline system at Castle. SED determined that WCG neither trained Mr. Rahilly to perform the covered tasks that he is responsible for nor did it evaluate his performance to determine if he had the knowledge, skills, and abilities

to perform the covered tasks, recognize, and react to AOCs since the beginning of his employment on October 1, 2007.

In its letter to WCG on June 10, 2009, CPSD stated that there were no OQ records for Mr. Rahilly.

WCG response stated the following in its response on July 22, 2009:

“There are four areas of the OQ plan that WCG has selected for annual training:

- 1. O&M Plan- annual testing to insure revisions to O&M Plan are understood.*
- 2. Emergency Field Training.*
- 3. Pressure Regulation.*
- 4. Unsafe condition.*

WCG will conduct the required annual training in these four areas in August and September 2009.”

However, in its 2013 GO 112-E audit, SED did not find any training or operator qualification records for Mr. Rahilly for the years from 2009 through 2013.

WCG must ensure through evaluation that its employees and contractors performing covered tasks are qualified per CFR, §192.805 (b) and must keep all contractors' OQ records. Please provide SED with the OQ records of Evan Rahilly within 30 days of this letter. If WCG has hired other personnel for emergency response in Castle, please provide the OQ records of them as well.

Response:

WCG limited Mr. Rahilly 's role to performing only two covered tasks 1) be the liaison to WCG employees as they responded to Castle simply providing on the scene descriptions and 2) to turn off a valve under the direction of a fully trained WCG employee. Therefore, it was that training would be limited. However, we recognize that this was a short-sited decision and will expand Mr. Rahilly's training to cover:

- 1. O&M Plan- annual testing to insure revisions to O&M Plan are understood.*
- 2. Emergency Field Training.*
- 3. Pressure Regulation.*
- 4. Unsafe condition.*

Copies of the training given to Mr. Rahilly are attached.

WCG must also establish provisions to communicate the requirement of its OQ Plan to contractors to ensure that the contractors follow the OQ Plan.

Additionally, WCG must identify in its OQ Plan how changes to procedures, tools, standards, and other elements used by individuals in performing covered tasks are communicated to the individuals, including contractor individuals, and how these changes are implemented in the evaluation methods as required by CFR, §192.805 (f).

Response:

WCG will identify, in its OQ Plan, how changes to procedures, tools, standards and other elements are communicated to WCG employees performing covered tasks in the April 15, 2014 revision to the OQ Plan.

3. WCG did not establish and document evaluation methods for individuals performing covered tasks in its OQ Plan.

SED determined that this is a repeat violation which CPSD previously identified as a result of its audits conducted in 2005 and 2009.

On June 10, 2009, CPSD's audit letter sent to WCG stated the following:

"The WCG OQ plan does not have any evaluation methods that are used to determine knowledge, skills, and abilities (KSA) of its personnel.

This is a repeat violation which was previously identified by Mr. Carter as a result of USRB's gas safety audit conducted in 2005.

WCG needs to document its evaluation method for each covered task."

On July 22, 2009, in its GO 112-E audit response letter to the CPSD, WCG stated the following:

"WCG does test covered employees KSA by giving a set of "classroom" instructions, based on many sources of information such as 49 CFR 192, instruction contained in manufactures product descriptions and applications. After the "classroom" instruction WCG tests the covered employee in the field by observing the employee performing the tasks."

SED determined that even though CPSD identified the same deficiency twice in the past audits, WCG has not included the evaluation method for each covered task in its OQ Plan; therefore, WCG is in violation of CFR, §§192.805 and 192.809.

WCG must have an evaluation method for each covered task listed in its OQ Plan. Since WCG did not have any records of evaluations in 2009, 2010, 2011, and 2012, SED could not evaluate the effectiveness of training provided for its employees.

As stated in CFR, §§192.809 (d) and (e), WCG may not use work performance history and observation of on-the-job performance as the sole method of evaluation.

WCG must revise its OQ Plan to satisfy the provision of the code sections CFR, §§192.805, 192.807, and 192.809.

Response:

WCG will revise its OQ Plan and present the revised Plan to DED on April 15, 2014.

4. SED determined that WCG's OQ Plan does not have any provisions for initial qualification, retraining and reevaluation of individuals performing covered tasks as required by CFR, §192.805(h).

SED determined that this is a repeat violation which CPSD previously identified as a result of its audits conducted in 2005 and 2009.

On June 10, 2009, CPSD's audit letter sent to WCG stated the following:

"Some of WCG personnel require more training to improve their KSAs. An example relative to WCG's OQ Plan is shown below. This is necessary to better prepare them, not only to perform the covered tasks that they are qualified for, but also to be able to recognize and react to general or task specific AOCs..."

This is a repeat violation which was previously identified by Mr. Carter as a result of USRB's gas safety audit conducted in 2005."

On July 22, 2009, in its GO 112-E audit response letter to the CPSD, WCG stated the following:

"WCG agrees and we will strive to improve the skill sets of all of our field employees and provide more complete documentation of the training and testing of all covered employees." 11

SED noted the following example to demonstrate that lack of training is still an issue with WCG covered employees. On May 2, 2013, SED and WCG inspected the rectifier located in the Castle service area. The gauge on the rectifier, used to indicate current flow, showed units of volts instead of amperes. SED observed WCG take a voltage reading of 15.4 mV across a 50 mV/60 amp shunt resistor and calculated an incorrect value of 30 amps for current output instead of 18.48 amps which was the correct current output.

Response:

WCG management is at fault for not including the conversion table in the instruction card contained in every rectifier. The table below is now included along with the instruction card and techs have been instructed on how to use it.

Shunt Multiplication Factors.

Shunt size	Multiplier	Shunt size	Multiplier
50 mV / 5 Amp	.1	50 mV / 45 Amp	0.9
50 mV / 10 Amp	.2	50 mV / 50 Amp	1
50 mV / 15 Amp	.3	50 mV / 55 Amp	1.1
50 mV / 20 Amp	.4	50 mV / 60 Amp	1.2
50 mV / 25 Amp	.5	50 mV / 65 Amp	1.3
50 mV / 30 Amp	.6	50 mV / 70 Amp	1.4
50 mV / 35 Amp	.7	50 mV / 75 Amp	1.5
50 mV / 40 Amp	.8	50 mV / 100 Amp	2

SED determined that even though CPSD identified the same deficiency twice in the past audits, WCG has not taken necessary corrective action to properly train its covered employees for the covered tasks that they perform; therefore, WCG violated CFR, §192.805(h) for the third time. **WCG must provide training, as appropriate; to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.**

Response:

WCG management agrees with SED that training needs to be ramped-up and that documentation of that training must be improved.

5. SED noted that WCG's OQ Plan does not have provisions:
 - To allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified as required by CFR, §192.805(c);
 - To evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191, as required by CFR, §192.805(d);
 - To evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task as required by CFR, §192.805(e).

WCG must revise its OQ Plan to satisfy the provisions of the code sections CFR, §§192.805 (c),(d), and (e).

Response:

WCG OQ Plan does in fact contain the instructions that 1) a non-qualified person can perform covered tasks if directed and observed by a qualified person 2) an individual will be reevaluated if the operator has reason to believe that performance has contributed to an accident and 3) to evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task.

6. SED determined that WCG does not have a process requiring evaluation of its OQ program and implementation of improvements to enhance the effectiveness of the program as required by CFR, §§192.605(a) and (b)(8).

WCG must evaluate its OQ program to implement improvements and evaluate effectiveness.

Response:

WCG agrees with SED and will add this to its April 15, revision of the OQ Plan.

7. SED also noted that WCG needs to review its OQ Plan regularly and update it as needed. SED determined that this is a repeat violation which CPSD previously identified as a result of its audits conducted in 2005 and 2009.

On June 10, 2009, CPSD's GO 112-E audit letter to WCG stated the following:

"We determined that WCG's Operator Qualification (OQ) Plan is outdated and has not been updated recently. The OQ plan mentions employees Mr. Miller, assistant field operations supervisor and Mr. Decker, the trainer for new employees who are no longer with the company. WCG needs to review its OQ Plan and update it as needed to reflect the most up-to-date information. This is a repeat violation which was previously identified by Mr. Carter as a result of USRB's gas safety audit conducted in 2005."

WCG must review and update its OQ Plan to reflect the most up-to-date changes in the plan and communicate the changes with its employees.

Response:

WCG did in fact revise the OQ Plan and removed any references to any employees no longer with the company. WCG will include the procedure whereby WCG communicates changes and additions to the OC Plan in its April 15, 2014 revision to the Plan. This revision took place shortly after the 2005 safety audit.

**SUBPART P–GAS DISTRIBUTION PIPELINE INTEGRITY
MANAGEMENT**

**AREAS OF
VIOLATIONS**

I- Title 49, CFR, §192.1007 What are the required elements of an integrity management plan?

A written integrity management plan must contain procedures for developing and implementing the following elements:

- (a) Knowledge. An operator must demonstrate an understanding of its gas distribution system developed from reasonably available information.
 - (1) Identify the characteristics of the pipeline's design and operations and the environmental factors that are necessary to assess the applicable threats and risks to its gas distribution pipeline.
 - (2) Consider the information gained from past design, operations, and maintenance.
 - (3) Identify additional information needed and provide a plan for gaining that information over time through normal activities conducted on the pipeline (for example, design, construction, operations or maintenance activities).

- (d) Identify and implement measures to address risks. Determine and implement measures designed to reduce the risks from failure of its gas distribution pipeline. These measures must include an effective leak management program (unless all leaks are repaired when found).

- (e) Measure performance, monitor results, and evaluate effectiveness.
 - (1) Develop and monitor performance measures from an established baseline to evaluate the effectiveness of its IM program. An operator must consider the results of its performance monitoring in periodically re-evaluating the threats and risks...”

1. WCG Distribution Integrity Management Program (DIMP), Section 11.2 “List of Answers and Data Sources from SHRIMP Interviews” lists the data sources used by WCG to develop an understanding of its gas distribution system. SED noted that WCG’s DIMP does not identify any data sources from the past design and environmental factors used to gain information of the system.

WCG must consider information gained from past design and environmental factors of its system or document whether or not such information is reasonably available and establish a plan for collection of relevant information as required by CFR, §192.1007 (a)(1) and (2).

2. SED reviewed WCG’s DIMP and did not find a written procedure to identify and collect additional information needed to fill gaps due to missing, inaccurate, or incomplete records.
WCG must include a procedure in its DIMP to identify additional information required and provide a plan for gaining that information over time through normal activities conducted on its pipeline such as design, construction, operations, and maintenance activities as required by CFR, §192.1007 (a)(3).
3. SED determined that even though WCG ranked external corrosion and third party damages as the primary risks, WCG’s DIMP did not indicate any additional actions to address these risks.

WCG must identify and implement measures to address risks from failure of its gas distribution pipeline as required by CFR, §192.1007 (d). WCG must also include an effective leak management program to its risk mitigation and preventive measures.

4. SED found that Section 7.3, Monitor Results and Evaluate Effectiveness of WCG’s DIMP does not have any provisions for developing and measuring performance measures and how WCG evaluates the effectiveness of its DIMP as required by CFR, §192.1007 (e)(1).

WCG must include provisions for evaluating the effectiveness of preventive measures used to reduce risk from an established baseline and document the results of its performance monitoring efforts.

WCG must also have provisions for considering the results of performance monitoring in periodically re-evaluating the threats and risks.

Response:

WCG will address SED's items 1 through 4 above in its April 15, 2014 revision of its DIMP.

II- Title 49, CFR, §192.13 What general requirements apply to pipelines regulated under this part?

Section 192.13(c) requires that "Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part."

SED reviewed WCG's DIMP and noted that the operators procedure Chapter 8 "Periodic Evaluation and Improvement" requires a re-evaluation of the plan on an annual basis. Chapter 11.4 "Plan Re-evaluation Log" indicates that WCG revised its Plan on March 27, 2012; however, SED found the following statement in Chapter 11 – Attachments:

"This is the July 2011 first DIMP effort. We will need to update this DIMP by mid February 2012"

SED found numerous other procedures within WCG's DIMP where it established February 2012 as the target completion date for re-evaluation; however, WCG failed to update its DIMP procedures by February 2012.

WCG must maintain and modify as appropriate the plans, procedures and programs under DIMP by the dates it establishes for completion.

Response:

These are clerical errors and should have been changed at the time of the revisions. WCG will address SED's concerns in this part in its April 15, 2014 revision of its DIMP.

PART 199. DRUG AND ALCOHOL TESTING

AREAS OF VIOLATIONS

I- Title 49, CFR, §199.3 Definitions.

As used in this part—

Covered employee, employee, or individual to be tested means a person who performs a covered function, including persons employed by operators, contractors engaged by operators, and persons employed by such contractors. (Emphasis added)

WCG, Part R, Covered Employee Drug and Alcohol Testing (DAT) Program of O&M Plan states:

“Part 199 of 49 CFR requires that WCG have a drug and alcohol testing program for persons who perform the following on WCG’s gas distribution systems:

- 1. Operating*
- 2. Maintenance, or*
- 3. Emergency Response Functions.*

WCG employees, who perform all or any of the functions listed above are, for the purposes of this program, “covered-employees”.

SED determined that WCG does not comply with CFR, §199.3 to define its covered employees.

WCG must consider contractors engaged by WCG and persons employed by such contractors as “covered employees”; therefore, WCG must include contractor employees to its DAT Program.

II- Title 49, CFR, §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.

Title 49, CFR, §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”.

(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.

WCG, Part R, DAT Program of WCG’s O&M Plan indicates that alcohol and drug tests are performed on covered employees; however, the plan does not contain any provisions for the employees of WCG’s contractors and persons employed by contractors who perform covered tasks on WCG’s pipeline system.

As per CFR, §§199.115 and 199.245, WCG is required to establish a program designed to help prevent accidents causing injuries, death and loss of properties resulting from the

misuse of drug and alcohol by covered employees including contractors or persons employed by contractor.

Therefore, WCG must include a provision in its DAT Program and clearly define who is responsible for drug and alcohol testing, training, and education for contractor employees. If WCG chooses to have a contract with a contractor that performs the alcohol testing, training, and education, WCG must clearly state this in its DAT Program and keep the records accordingly.

Response:

WCG does include contractors who perform covered tasks in its DAT Program by insisting on proof the contractor who is performing a covered task is part of his/her employer DAT Program. For example, we requested and received proof from Heath Consultants that the person performing the leak survey under contract to WCG was in a random drug testing program at Heath. We would do the same for any welder who was hired by WCG to perform covered tasks as well as heavy equipment operators. WCG will make absolutely sure that this requirement is highlighted in our April 15, 2014 revision to our DAT Program.

III- Title 49, CFR, §199.105 Drug tests required.

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

- a) Pre-employment testing.
- (b) Post-accident testing.
- (c) Random testing.
- (d) Testing based on reasonable cause.
- (e) Return-to-duty testing.
- (f) Follow-up testing.

Title 49, CFR, §199.225 Alcohol tests required.

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

- (a) Post-accident.
- (b) Reasonable suspicion testing.
- (c) Return-to-duty testing.
- (d) Follow-up testing.

(e) Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.

On August 24, 2007, in its response to CPD's gas safety audit it conducted in 2007, WCG stated the following:

"WCG has hired a part-time individual, who resides near Castle and could be on scene within a few minutes. This individual has years of experience as a facilities maintenance technician at Castle. The sole responsibility of this part-time employee will be to respond to notices of a gas emergency as defined in 192.615 (a)(3). WCG is in the process of training this individual in emergency response procedures and the equipment used to mitigate a gas emergency. This employee will be deployed at Castle no later than October 1, 2007."

SED noted that WCG hired Evan Rahilly to respond to emergencies in WCG gas pipeline system in Castle as a result of CPD's 2007 audit. However, SED did not find any records demonstrating that WCG administered any of the drug and alcohol tests required by CFR, Part 199 for Mr. Rahilly since the beginning of his employment in 2007. Therefore, WCG is in violation of CFR, §§199.105 and 199.225.

WCG must administer all required drug and alcohol testing for Mr. Rahilly and inform SED of the actions taken within 30 days of this letter. WCG must also include Mr. Rahilly to its pool of covered employees that it tests for drug and alcohol and train him as required by CFR, Parts 199 Part 2525.

Response:

Mr. Rahilly is included in WCG's DAT and he is subject to random testing as well as all other provisions of the DAT Program.

IV- Title 49, CFR, §199.113 Employee assistance program.

(a) Each operator shall provide an employee assistance program (EAP) for its employees and supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The operator may establish the EAP as a part of its internal personnel services or the operator may contract with an entity that provides EAP services. Each EAP must include education and training on drug use. At the discretion of the operator, the EAP may include an opportunity for employee rehabilitation.

(b) Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the employer's policy regarding the use of prohibited drugs.

Response:

WCG will display this requirement in its maintenance shop.

Title 49, CFR, §199.117 – Record Keeping

(a) Each operator shall keep the following records for the periods specified and permit access to the records...:

(4) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.

Title 49, CFR, §199.239 – Operator Obligation to Promulgate a Policy on the Misuse of Alcohol

(a) *General requirements.* Each operator shall provide educational materials that explain these alcohol misuse requirements and the operator's policies and procedures with respect to meeting those requirements.

(1) The operator shall ensure that a copy of these materials is distributed to each covered employee prior to start of alcohol testing under this subpart, and to each person subsequently hired for or transferred to a covered position.

(2) Each operator shall provide written notice to representatives of employee organizations of the availability of this information.

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

(11) Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol including intervening when an alcohol problem is suspected, confrontation, referral to any available EAP, and/or referral to management.

Response:

WCG provide this information to all employees and include references to these materials in it revised DAT Program.

Title 49, CFR, §199.227 Retention of records.

(a) General requirement. Each operator shall maintain records of its alcohol misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. Each operator shall maintain the records in accordance with the following schedule:

(2) *Two years.* Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of two years.

WCG, Part R, Section of E of its DAT Program states the following:

“WCG will provide employees with an employee assistance program (EAP). The purpose of the EAP is to provide employees with education and training on drug use. In addition, WCG will provide rehabilitation assistance to any employee who seeks help for drug related problem.

WCG will conduct at least 1 one-hour training secession each year on drug abuse issues. All employees are required to attend these training secessions and must sign the attached Drug Abuse Training forms at the completion of the training secession.

The WCG Maintenance Supervisor and the Chief Financial Officer will attend a training session provided by a professional in the field of “reasonable cause” drug testing. This training will include at least 60 minutes of training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug use.”

SED evaluated WCG’s DAT Program and found the following deficiencies:

1. WCG did not provide an EAP for its employees and supervisory personnel to help with education and training on drug abuse issues and rehabilitation assistance as required by CFR, §199.113 (a) and (b),
2. WCG has never conducted any training on drug abuse issues as per its DAT Program,

3. WCG's DAT Program does not have any provisions to provide any materials to its employees regarding alcohol misuse and WCG did not provide any educational materials that explain alcohol misuse requirements and its policies and procedures with respect to meeting those requirements as required by CFR, §199.239 (a) and (b) (11).

SED determined that WCG must do the following:

1. WCG must establish an EAP for its employees and supervisory personnel and explanation of its drug policies, which may also include an opportunity for employee rehabilitation as per CFR, §199.113 (a),
2. WCG must also provide education and training on use of prohibited drugs and rehabilitation assistance under its EAP which must include at least the elements listed under CFR, §199.113 (b),
3. WCG must maintain all training records for at least 3 years according to CFR, §199.117 (a) (4),
4. WCG must add provisions to its DAT Program to provide the EAP for its employees regarding alcohol misuse as required by CFR, §199.239 (a) and also provide educational materials concerning the effects of an alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a coworker's); and including intervening evaluating and resolving problems associated with the misuse of alcohol as required by CFR, §199.239 (b) (11).
5. WCG must also keep training records as per CFR, §199.227 (b) (2).

Please inform SED of the actions taken to correct the deficiencies identified above along with relevant records within 30 days of this letter.

Response:

WCG has conducted training in the form of an annual meeting for about 1 hour in 2009 through 2012. However, the scope was not as broad as required including the EAP and educational materials. This shortfall will be corrected.

V- Title 49, CFR, §199.113 Employee assistance program.

Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

Title 49, CFR, §199.117 Record Keeping.

Section 199.117 (a) Each operator shall keep the following records for the periods specified and permit access to the records...:

(4) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.

Title 49, CFR, §199.241 Training for supervisors.

Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under § 199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Title 49, CFR, §199.227 Retention of records.

(a) General requirement. Each operator shall maintain records of its alcohol misuse prevention program as provided in this section. The records shall be maintained in a secure location with controlled access.

(b) Period of retention. Each operator shall maintain the records in accordance with the following schedule:

(2) *Two years.* Records related to the collection process (except calibration of evidential breath testing devices), and training shall be maintained for a minimum of two years.

(c) Types of records. The following specific records shall be maintained:(6) Records related to education and training:

(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(iv) Certification that any training conducted under this subpart complies with the requirements for such training.

SED evaluated WCG's DAT Program and determined the following deficiencies about supervisor training:

1. WCG's DAT Program does not contain any requirement to provide at least 60-minute training to persons designated to determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.

WCG has never provided any 60-minute training to its supervisory personnel to determine that its employees must be drug tested based on reasonable cause; therefore, WCG is in violation of CFR, §199.113.

2. WCG's DAT Program does not contain any requirement to provide at least 60-minute training to persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under CFR, §199.225(b) and receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

WCG has never provided any 60-minute training to its supervisory personnel to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing; therefore, WCG is in violation of CFR, §199.241.

SED determined that WCG must do the following:

1. WCG must add at least 60-minute supervisor training requirement to its DAT Program to recognize the symptoms of use of prohibited drugs and determine whether reasonable cause exists to require its employees to undergo drug testing,
2. WCG must provide at least 60-minute training to its supervisors to educate supervisors on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use as required by CFR, §199.113 and keep training records as per CFR, §199.117,
3. WCG must add at least 60-minute supervisor training requirement to its DAT Program to recognize the symptoms of alcohol misuse and how to determine whether suspicious cause exists to require its employees to undergo alcohol testing,
4. WCG must provide at least 60-minute training to its supervisors to educate supervisors on how to recognize the physical, behavioral, speech, and performance indicators of probable alcohol misuse and determine the need to administer alcohol testing for its employees as required by CFR, §199.241 and keep training records as per CFR, §199.227.

Response:

WCG will add each of the above elements to its DAT program and document each element in the April 15, 2014 update of its DAT.