

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



October 20, 2022

GI-2022-02-LGS-37-06-07

Mathieu Fournier (mathieu.fournier@rockpointgs.com)
VP of Eng/Ops
Lodi Gas Storage, L.L.C.
P.O. Box 230
Acampo, California, 95220-0230

SUBJECT: Closure Letter for General Order (GO) 112-F Gas Inspection of Lodi Gas Storage's Operator Qualification and Anti-Drug and Alcohol Misuse Programs

Dear Mr. Fournier:

The Safety and Enforcement Division (SED) of the California Public Utilities Commission reviewed Lodi Gas Storage's (LGS) response letter dated May 18, 2022 for the findings identified during the General Order 112-F inspection of LGS's Operator Qualification and Anti-Drug and Alcohol Misuse Programs. The inspection was conducted between February 28 and March 4, 2022.

Included is SED's evaluation of LGS's responses taken for the one (1) violation and five (5) identified Areas of Concern.

This letter serves as the official closure of the 2022 GO 112-F Inspection of LGS's Operator Qualification and Anti-Drug and Alcohol Misuse Programs.

Thank you for your cooperation in this inspection. 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 "Dennis Lee".

Dennis Lee, P.E.
Program and Project Supervisor
Gas Safety and Reliability Branch
Safety and Enforcement Division

Cc: Gregory N. Clark, LGS (greg.clark@rockpointgs.com)
Terence Eng, SED
Victor Muller, SED
Jason McMillan, SED

Summary of Inspection Findings

Dates of Inspection: 2/28/2022-3/4/2022

Operator: LODI GAS STORAGE, LLC

Operator ID: 31697 (primary)

Inspection Systems: LODI GAS STORAGE

Assets (Unit IDs) with results in this report: Lodi Gas Storage (86920)

System Type: DA

Inspection Name: 2022 Lodi Gas Storage OQ and D&A

Lead Inspector: Victor Muller

Operator Representative: Greg Clark

Unsatisfactory Results

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

Question Text Does the process ensure that an EAP is established and available to employees and supervisory personnel?

References 199.113(a) (199.113(b), 199.113(c))

Issue Summary Title 49 CFR §199.101(a)(1) states:

"(a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain-

(1) Methods and procedures for compliance with all the requirements of this part, including the employee assistance program;"

Title 49 CFR §199.113(b) states:

"(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."

Section XVIII of LGS's Anti-Drug and Alcohol Misuse Plan states in part:

"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 LODI GAS STORAGE, L.L.C.'s policy regarding the use of prohibited drugs."

LGS displays posters on-site and has annual meetings including information material, the hot-line telephone number, and information on LGS's policy regarding the use of prohibited

drugs. However, LGS's plan does not contain the specific methods and procedures LGS follows for providing informational material and the hot-line telephone number, or for the display and distribution of LGS's policy. Although LGS included the language verbatim from Title 49 CFR §199.113(b) into its written anti-drug plan, LGS did not include methods and procedures for compliance with §199.113(b). Therefore, SED finds LGS in violation of Title 49 CFR §199.101(a)(1).

Appendix A of LGS's plan also lists an EAP that LGS no longer uses. LGS must update the appendix to include their current EAP.

LGS's Response:

Lodi Gas Storage has included the specific methods used to comply with 49 CFR §199.113(b) within its Anti-Drug and Alcohol Misuse Plan and updated Appendix A to include its current EAP.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this violation during the next Anti-Drug and Alcohol Misuse inspection.

Concerns

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

Question Text 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))

Issue Summary Title 49 CFR §40.13(b) states:

"(b) DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test."

Section VI Non-DOT Company Testing of LGS's Anti-Drug and Alcohol Misuse Plan states:

"In addition to the requirements set forth under federal regulations, the Company may require additional testing and procedures under the Company's own authority. The Company's Non-DOT Testing Program will be kept separate and apart from the DOT testing program. The Company will advise employees and applicants when any drug-free workplace policy or practice is mandated by PHMSA or whether it be by the independent authority of the Company. The Company will conduct Non-DOT testing within the parameters of any applicable state and federal laws."

SED recognizes that LGS does not currently perform any Non-DOT Testing. However, SED recommends that LGS's Anti-Drug and Alcohol Misuse Plan be revised to either explicitly disallow non-DOT testing or to state that DOT tests will take priority and be completed before non-DOT testing is begun.

LGS's Response:

Lodi Gas Storage has updated its Anti-Drug and Alcohol Misuse Plan to specify that DOT tests will take priority and be completed before non-DOT testing is begun.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this concern during the next Anti-Drug and Alcohol Misuse inspection.

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

Question Text Does the process ensure D&A MIS reports are submitted annually to PHMSA as required?

References 199.119(a) (199.3, 199.119(f), 199.229(a), 199.229(d), 40.26)

Issue Summary Section XIX Reporting of Test Results (MIS) of the LGS's Anti-Drug and Alcohol Misuse Plan establishes that each large operator shall submit an annual MIS report to PHMSA of its anti-drug testing and that small operators may be required by notice to submit an annual MIS report.

SED recommends that LGS include a statement that LGS is a small operator with 50 or fewer covered employees and that LGS does not fill out an annual MIS report in order to make the plan specific to LGS's practices.

LGS's Response:

Lodi Gas Storage has updated its Anti-Drug and Alcohol Misuse Plan to explicitly state that LGS is a small operator and complies with small operator requirements.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this concern during the next Anti-Drug and Alcohol Misuse inspection.

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

Question Text 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))

Issue Summary LGS's Anti-Drug and Alcohol Misuse Prevention Policy section XIV(D) Reasonable Cause Testing states in part:

"At least two of the covered employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test a covered employee. The concurrence between the two supervisors may be by telephone. However, in the case of employer with 50 or fewer employees subject to testing under the PHMSA regulations, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test."

LGS requires only one trained supervisor of an employee to substantiate a decision to perform for cause drug testing due to LGS employing fewer than 50 covered employees. SED recommends that LGS revise their Anti-Drug and Alcohol Misuse Prevention Policy to clarify that LGS is subject to the exemption described in this section of their plan.

LGS's Response:

Lodi Gas Storage has updated its Anti-Drug and Alcohol Misuse Plan to specify that only one trained supervisor is required due to LGS employing fewer than 50 covered employees.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this concern during the next Anti-Drug and Alcohol Misuse inspection.

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

Question Text 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))

Issue Summary Section XVII(G) MRO Reporting of Results in LGS's Anti-Drug and Alcohol Misuse Plan states in part:

"The Company may use a C/TPA as its intermediary in receiving drug test results."

SED recommends that LGS revise their plan to specify that LGS is currently using DISA Global Solutions Inc. as a third party administrator and to detail how they are receiving test results from DISA Global Solutions Inc. in a confidential manner.

LGS's Response:

Lodi Gas Storage has updated its Anti-Drug and Alcohol Misuse Plan to specify the use DISA Global Solutions Inc. as its third party administrator and intermediary in receiving drug test results.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this concern during the next Anti-Drug and Alcohol Misuse inspection.

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

Question Text Does the process ensure that reasonable suspicion alcohol testing is conducted as required?

References 199.225(b) (199.225(b)(1), 199.225(b)(2), 199.225(b)(3), 199.225(b)(4), 40.355(g), 40.355(h))

Assets Covered Lodi Gas Storage (86920 (37))

Issue Summary LGS's Anti-Drug and Alcohol Misuse Prevention Policy section XIV(D) Reasonable Cause Testing states in part:

"At least two of the covered employee's supervisors, one of whom is trained in detection of the possible symptoms of drug use, shall substantiate and concur in the decision to test a covered employee. The concurrence between the two supervisors may be by telephone. However, in the case of employer with 50 or fewer employees subject to testing under the PHMSA regulations, only one supervisor of the employee trained in detecting possible drug use symptoms shall substantiate the decision to test."

LGS requires only one trained supervisor of an employee to substantiate a decision to perform reasonable suspicion alcohol testing due to LGS employing fewer than 50 covered employees. SED recommends that LGS revise their Anti-Drug and Alcohol Misuse Prevention Policy to clarify that LGS is subject to the exemption described in this section of their plan.

LGS's Response:

Lodi Gas Storage has updated its Anti-Drug and Alcohol Misuse Plan to specify that only one trained supervisor is required due to LGS employing fewer than 50 covered employees.

SED's Conclusion:

SED has reviewed and accepted LGS's response. SED may review any actions taken regarding this concern during the next Anti-Drug and Alcohol Misuse inspection.