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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 199

[Docket No. PHMSA-2011-0335]

Pipeline Safety: Post Accident Drug and Alcohol Testing

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT

ACTION: Notice of Issuance of Advisory Bulletin.

SUMMARY: PHMSA regulations in Part 199 require pipeline operators and operators of Liquefied Natural Gas (LNG) facilities to conduct post-accident drug and alcohol tests of covered employees. Within the mandated timelines after a reportable pipeline accident or incident, operators must drug and alcohol test each covered employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident or incident. Operators must make the determination of employee contribution to the accident or incident promptly to meet the timelines for testing required by the regulations. This was further emphasized by the National Transportation Safety Board (NTSB) in its report of the September 9, 2010, incident in San Bruno, California.

DATES: February 23, 2012.

FOR FURTHER INFORMATION CONTACT: Stanley Kastanas by phone at 202-550-0629 or by e-mail at stanley.kastanas@dot.gov, regarding the subject matter of this advisory bulletin, or the Dockets Unit, 202-366-4453, for copies of this advisory bulletin or other material in the docket. All materials in this docket may be accessed electronically at

<http://www.regulations.gov/search/Regs/home.html#home>. General information about the

PHMSA Office of Pipeline Safety (OPS) can be obtained by accessing OPS's Internet home page at <http://www.phmsa.dot.gov/pipeline>.

SUPPLEMENTARY INFORMATION:

I. Background

On September 9, 2010, a 30-inch-diameter segment of an intrastate natural gas transmission pipeline owned and operated by the Pacific Gas and Electric Company ruptured in a residential area in San Bruno, California. As a result of an NTSB investigation of this event, one of its recommendations to PHMSA was to issue guidance clarifying the need to conduct post-accident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident. This advisory bulletin fulfills the NTSB recommendation and PHMSA's ongoing commitment to pipeline safety.

II. Advisory Bulletin (ADB-2012-02)

To: Operators of Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities

Subject: Post-Accident Drug and Alcohol Testing

Advisory: "The need to conduct post-accident drug and alcohol testing of all potentially involved personnel despite uncertainty about the circumstances of the accident" is an important reminder and

recommendation in the final report of the NTSB - *Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire, San Bruno, California, September 9, 2010*, Pipeline Accident Report [NTSB/PAR-11/01; Washington, DC]. The term “accident” in Part 199 includes both “incidents” reportable under Part 191 and “accidents” reportable under Part 195. Covered employees include both operator employees and contractor employees performing operations, maintenance, or emergency response functions. Operators and contractors are encouraged to review and update, where necessary, plans and procedures governing post-accident substance abuse/misuse testing and train all those involved with ensuring that such testing is performed promptly and in an effective manner.

Compliance Reminder

Operators are reminded that covered functions encompass a broad range of employee and contractor positions, including, but not limited to, contract emergency responders, pressure control technicians, temp-agency covered employees, and control room operators. If a covered employee’s performance cannot be completely discounted as a contributing factor to the accident or incident, the employee must be tested for the potential substance abuse or misuse of both drugs and alcohol. In order to meet the testing timelines, do not delay testing in order to determine the circumstances surrounding the accident or incident. However, the accident or incident circumstances and events must be assessed promptly and documented, especially the reasons for not drug or alcohol testing an accident-related covered employee.

Key Regulatory Sections Applicable to Post-Accident Drug and Alcohol Testing

The following are key regulatory sections addressing post-accident drug and alcohol testing that should be reviewed, along with other applicable sections of Part 199:

- Under §199.105, post-accident drug tests of covered employees whose performance cannot be completely discounted as a contributing factor to the accident must be completed no later than 32 hours after the accident.
- Under §199.225(a), if an operator does not complete post-accident alcohol testing of covered employees whose performance cannot be completely discounted as a contributing factor to the accident within two hours of the accident, the operator must prepare and maintain on file a record stating the reasons the test was not promptly administered. If post-accident alcohol testing is not administered within eight hours following the accident, the operator must cease attempts to administer an alcohol test and must state in the record the reasons for not administering the test. Covered employees must remain available for post-accident testing, but emergency response or medical care of the employee are never to be delayed for alcohol testing.
- Under §199.221, each operator shall prohibit a covered employee who has actual knowledge of an accident in which his or her performance of covered functions has not been discounted by the operator as a contributing factor to the accident from using alcohol for eight hours following the accident, unless he or she has been given a post-accident test under §199.225(a), or the operator has determined that the employee's performance could not have contributed to the accident.

- Under § 199.103(a) an operator may not knowingly use as an employee any person who 1) fails a drug test required by this part and the Medical Review Officer makes a determination under DOT Procedures Part 40; or (2) refuses to take a drug test required by this part.
- Under § 199.223, each operator shall require a covered employee to submit to a post-accident alcohol test required under § 199.225(a). No operator shall permit an employee who refuses to submit to such a test to perform or continue to perform covered functions.
- Under § 199.233, no operator shall permit any covered employee to perform covered functions if the employee has engaged in conduct prohibited by §§ 199.215 through 199.223.

Issued in Washington, DC ___February 15, 2012_____.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.