



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

April 24, 2020

Mr. Alexander Pacheco
General Counsel
IBEW Local 1245
30 Orange Tree Circle
Vacaville, CA 95687

Dear Mr. Pacheco:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), dated February 14, 2020, you requested an interpretation of the federal pipeline safety regulations in 49 CFR § 192.615 with respect to customer service representatives (CSRs) working in Pacific Gas & Electric (PG&E) call centers. In your letter you state, “*Under 49 CFR 192.615, any person who performs on a gas pipeline a regulated operating, maintenance, or emergency-response function is subject to DOT-mandated drug testing.*” You add that the drug testing is required “*under § 192.615.*”

To clarify, PHMSA’s Drug and Alcohol Testing regulations are codified in 49 CFR Part 199, not in Part 192. The specific regulations requiring drug and alcohol (D&A) testing include § 199.1.

§ 199.1 Scope.

This part requires operators of pipeline facilities subject to part 192, 193, or 195 of this chapter to test covered employees for the presence of prohibited drugs and alcohol.

In addition, § 199.3 specifies the meaning of “*covered employee*” and “*covered function.*”

§ 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.

Covered function means an operations, maintenance, or emergency-response function regulated by part 192, 193, or 195 of this chapter that is performed on a *pipeline* or on an *LNG facility*.

Please note that the definition of “*covered function*” refers to Parts 192, 193, and 195 for clarification as to what specific operations, maintenance, and emergency-response functions require “*covered employees*” to be D&A tested per Part 199.

The code section you referenced, § 192.615, requires each operator of a gas pipeline to establish written emergency plans. Those written emergency plans must include the emergency-response functions that would trigger the D&A testing of “covered employees” under Part 199.

Your concern pertains to CSRs working in PG&E call centers. As you noted in your letter, PHMSA addressed this issue in interpretation PL-90-003 dated February 13, 1990. That interpretation states that service clerks responsible for performing the following three things are “covered employees” subject to D&A testing:

1. receiving telephone notices of gas leaks,
2. identifying those notices that require immediate response by the company; and
3. dispatching personnel to the scene.

In reviewing the PG&E CSR processes you enclosed in your letter, PHMSA believes that in each case the “dispatching of personnel to the scene” function (item # 3 above) is not performed by the CSR but by PG&E’s Dispatch Department. Thus, PHMSA finds that the CSRs working in PG&E call centers are not performing all three of the stated functions and, therefore, are not “covered employees” subject to D&A testing.

Notwithstanding the above, nothing in Part 199 prohibits an employer from D&A testing any of its employees using non-DOT procedures, including those employees already subject to D&A testing under PHMSA regulations.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

JOHN A
GALE

Digitally signed
by JOHN A
GALE
Date: 2020.04.24
13:03:50 -04'00'

John A. Gale
Director, Office of Standards
and Rulemaking

FEB 21 2020

IBEW

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Local Union 1245

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**TOM DALZELL, BUSINESS MANAGER
CECELIA DE LA TORRE, PRESIDENT**

February 14, 2020

VIA U.S. MAIL

Alan K. Mayberry
Associate Administrator for Pipeline Safety
Office of Pipeline Safety
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Interpretation of CFR 49 § 192.615 with respect to customer service representatives working in call centers.

Dear Associate Administrator Mayberry:

Under 49 CFR § 192.615, any person who performs on a gas pipeline a regulated operating, maintenance, or emergency-response function is subject to DOT-mandated drug testing. As further clarified by the Office of Pipeline Safety in its Interpretation Response #PI-90-003 (a copy of which is attached hereto as **Exhibit A**), a "service clerk" who "is responsible for receiving telephone notices of gas leaks, identifying those notices that require immediate response by the company, and dispatching personnel to the scene would be subject to drug testing" under Section 192.615.

The purpose of this letter is to request guidance regarding the applicability of Section 192.615 to a specific classification of employees represented by the International Brotherhood of Electrical Workers, Local 1245 ("Local 1245")—*i.e.*, a customer service representative ("CSR") working within a high-volume telephone call center—within a bargaining unit comprised of clerical employees working at Pacific Gas & Electric ("PG&E"). Local 1245 and PG&E are jointly submitting this letter in the hopes that a definitive response from your office will help the parties avoid having to submit this issue of statutory interpretation to a labor arbitrator with no specific expertise in this area.

Like the "service clerk" described above, PG&E call-center customer service representatives are responsible for receiving telephone calls reporting gas leaks from customers and/or the public, along with handling many other customer inquiries. In some instances, a caller's primary purpose for calling PG&E may not have been to report a gas leak. However, as part of their extensive, six-week training course, CSRs are specifically trained in how to ask probing questions of customers whose primary purpose for calling (e.g., an unusually high gas bill) might

be caused by a gas leak. Upon receiving a report of a gas leak or after helping a customer identify that they may have a gas leak, the information gathered by the CSR and the actions they should take in response to the possible gas leak are carefully dictated by PG&E policy (as set out in detail below). The parties would like to know whether this response protocol constitutes a safety-sensitive function that would render these employees a covered classification under Section 192.615, and therefore subject to DOT-mandated drug testing.

When a PG&E call-center customer service representative receives a call¹ from a customer or from the public, CSRs are trained to ask probing questions to determine whether the caller may have a possible gas leak and if so, what type of gas leak may be involved (*i.e.*, in the customer's house, at the meter, at another exterior location nearby, etc.). The CSR then must process the call and record the interaction with the customer according to one of the four following processes:

1. The first of these processes, which is the default, is to utilize an automated electronic command and response "script" contained within PG&E's Customer Care & Billing ("CC&B") computer software system. (A representative sample² of this script, recorded from computer screenshots in Adobe PDF format, is attached hereto as **Exhibit B**.) The script contains a series of question prompts and response fields for the CSR to input or transcribe the information given by the customer. The CSR reads the question prompts to the customer in sequential order. The response fields do not allow a CSR to input any text, but rather, they are fixed, meaning they require a simple click (or no click) to designate the response. However, the subsequent prompts will vary depending on the choices selected by the CSR (*e.g.*, a "no" response to a question may result in no further question prompts on that subject or to different questions than those prompted by a "yes" response). In addition to selecting the customer's responses to the questions, the CSR is required to confirm the customer's location and contact information, if already on file, or to manually input the correct information. The only other response field that permits text input by the CSR is the "Comments" box located after all the question prompts. The "Comments" box is a catch-all location for all other information the CSR needs to communicate to the workers in the field, including things such as access issues, additional information about the potential location of the leak, directions if the property is not clearly marked or if mapping of the location is inaccurate or misleading, and other relevant information from field order notes prior visits to the customer. Immediately following the "Comments" box is a series of commands, or advisory prompts, to be read to the customer by the CSR before concluding the phone call. The advisory prompts that appear vary depending upon the information input to that point by the CSR in the CC&B system. When the script is completed, and the CSR has input all required information, the CSR must submit the script as completed. Once submitted, an electronic ticket is generated which depicts the information input by the CSR, such as whether the leak is emanating from inside or outside the building, and whether there are any restrictions or impediments to gaining access to the building (*e.g.*, a locked gate or a dog). Once the ticket has been generated, the CC&B system will indicate if a call is required to dispatch to confirm receipt by displaying a red or green message box. If a green message box

¹ Although discouraged from doing so, customers occasionally email potential gas leak information to PG&E's customer service department. Such emails are handled by a subset of CSRs who are specifically trained to evaluate these emails and determine whether a field ticket is required, without the option of speaking with the customer.

² As herein discussed, the actual questions displayed in the CC&B script will vary depending upon the type and location of gas leak and other information that is input into the system by the CSR.

is displayed, a call is not required to dispatch to confirm receipt, as it has automatically been received. However, if a red message box is displayed, a call to dispatch is required to confirm receipt. Today, tickets that are submitted in the gas leak category³ are all automatically prioritized as an immediate response “priority 10” field order/tag, regardless of severity of the leak as previously determined by the customer’s responses to the questions that were outlined in General Reference Guide. Moreover, for most (if not all) cases where a call center CSR utilizes the automated CC&B script to create a field order/tag, a call will not be required to notify dispatch of the field order, as the green message box will be displayed under most circumstances.

2. In the event the automated CC&B script feature “freezes,” is offline or otherwise unavailable, the call center CSR must utilize the second of the two processes. That is, the CSR must refer to PG&E’s General Reference Guide, which entails the same lines of inquiry for the customer as contained within the automated CC&B script. After preliminary conversation with the caller and identifying the appropriate guide from among the twenty-eight gas related guides in General Reference, the CSR follows the question prompts in the guide, as they would do in CC&B. (A true and correct copy of one of these guides, the “gas leak” call guide, recorded by copying and pasting the text from the General Reference Guide into an Adobe PDF, is attached hereto as **Exhibit C**.) The CSR must then record the information provided by the customer by manually typing the responses into the comments box while creating a field order/tag by launching the manual process from the “premise id,” as opposed to clicking fixed response fields in the automated CC&B script. The manual entry of data is the only materially distinguishing characteristic between this process and the first. The processes are otherwise identical in form and substance.
3. The third process is to utilize the “On-Line Tech Down” (OLTD) portal. OLTD is to be used only in the rare situation where the CC&B system—as well as PG&E’s other online applications—are completely down and/or otherwise inaccessible, which is referred to as a “Code Red” event. During such a Code Red event, call center CSRs must utilize the “gas leak call guide” within PGE’s General Reference Guide, which again, entails the same line of inquiry for the customer as contained within the CC&B automated script. But rather than typing the customer’s responses within the CC&B portal as identified in the second process (above), the call-center CSR will instead type the responses into the OLTD portal. The CSRs are then required to call dispatch to confirm receipt of all gas leak tags created in OLTD, since the OLTD system does not produce any red or green message box indicating whether dispatch has received the gas leak tag. Again, this process is otherwise identical in form and substance to the first two described above. In the rare event PG&E’s General Reference Guide is down or offline, CSRs would receive a printed version of the General Reference Guide from their respective supervisor.
4. Finally, in the event even the OLTD portal is unavailable (which would only happen in the case of a catastrophic failure) CSRs would be required to follow the printed General Reference Guide and create handwritten ticket requests, which would then be faxed to

³ There are instances in which a CSR may conclude that a caller identifying a potential gas leak does not require a work ticket to be submitted within PG&E, for instance, when PG&E does not provide gas service in the area identified by the caller. In instances in which the CSR determines a PG&E ticket is not required, the CSR provides other information to the caller, such as the identity of their gas service provider if known, instructions to vacate the premises, and/or to call 911.

PG&E's Dispatch department. The questions and interactions with customers would remain the same under this process as under the other three processes.

As mentioned above, ideally, you could provide a definitive answer as to whether the functions described above would constitute covered safety-sensitive functions as defined by CFR 49 CFR § 192.615. If that's not possible, the parties would appreciate any insight the Office of Pipeline Safety might have as to that issue.

Thank you,

A handwritten signature in black ink, appearing to read "Alex Pacheco", with a long horizontal flourish extending to the right.

Alexander Pacheco
General Counsel
IBEW Local 1245

CC: Tom Dalzell, IBEW 1245 Business Manager
Bryan Carroll, IBEW 1245 Assistant Business Manager
Missy Parry, PG&E Senior Counsel
Robin Wix, PG&E Labor Relations Principal Negotiator

Exhibit A

February 13, 1990

Mr. Bill Quilhot
President
Local Union 1582
International Brotherhood of
Electrical Workers
Aurora, Illinois 60426

Dear Mr. Quilhot:

Your letters of December 26, 1989, and January 30, 1990, ask for additional clarification of whether an employee known as a "service clerk" who takes calls pertaining to gas pipeline leaks would be subject to drug testing under DOT's rules in 49 CFR Part 199.

I can affirm the understanding that Mike Youngs of Northern Illinois Gas expressed about such employees in his letter to Bea Vandervalk dated October 25, 1989. Any pipeline company employee who is responsible for receiving telephone notices of gas leaks, identifying those notices that require immediate response by the company, and dispatching personnel to the scene would be subject to drug testing. The employee would be covered by the rules because he or she would be performing on a pipeline emergency-response functions that are regulated under 49 CFR Part 192, specifically § 192.615 concerning emergency plans. In general, as provided by the Part 199 definition of "employee," any person who performs on a gas pipeline a regulated operating, maintenance, or emergency-response function is subject to drug testing.

I trust this satisfactorily responds to your inquiry.

Sincerely,

George W. Tenley, Jr.
Director
Office of Pipeline Safety

Exhibit B

PG&E Gas Leak Script for CCO

Schedule FA/FO for Premise 1473600123 - 123 MAIN ST, OAKLEY

Please indicate the type of Field Activities you need to create.

SP 1473600246 Gas-Mtr-Res-Sm/Med-Standard/Monthly - L Serial/Meter Read Route LYC62/123 MAIN ST, OAKLEY, CA, 945611600167, USA, Residential Detached House, 14736001

What type of Action will you be selecting?

Select Source of Gas Leak Call

In the last 24 hours, have you had your sewer cleaned?

Is the odor inside or outside?

Select appropriate Odor Source

Can you provide any additional access information or any details that helps describe the physical location of the gas leak at the premise?

Address/Unit/Space #/Gate Code:

Are there any meter access or safety issues?

Based on answers to the preceding prompt(s), a Gas Leak Investigation FA has been selected. Review FA details.

Contact Name:

Contact Phone number: (enter 10 digit number in format 123-123-1234 (9))

Any Cross Street 1:

Any Cross Street 2:

Can you hear gas hissing or blowing?

Are Police/Fire/Media on Site?

Did the caller mention Gas Transmission Lines?

Add additional comments and update Phone Number (if necessary) for FO 1473690303.

Cross Street information is required for descriptive addresses, Immediate Response (IR), Meter Sets, Rural Areas or Unknown Premises.

Warning: You must click on the Save FO button in order for the FO Comments to be saved. DO NOT click on the Continue button or all FO Comments information displayed below will be lost.

Comments

No Access or Safety Issues;Address/Unit/Space #/Gate Codes: =left side of house;EVAC; Xstr1=2nd st;Xstr2=3rd ave; Contact Name=lynn;Contact Phone=(409) 123-4567;

24 characters remaining

Phone Type

Phone Number (409) 123-4567

Extension

Phone Format (999) 999-9999

Advise the customer the next available field service representative will be dispatched immediately and arrive shortly to make the situation safe.

- * For safety reasons, we advise everyone to immediately evacuate the building/area until personnel arrive, we will make every effort to respond within one hour
- * Leave everything as is - do not turn off any appliances, light switches, etc.
 - > Not required when caller is reporting an area or non-premise leak
- * Do not hang up the phone, PG&E will disconnect the call
- * Please remain nearby the evacuated premise and watch for our service personnel.
(if necessary under extreme conditions: Call 911 from another premise)

Thank you for calling.

Immediate Response not confirmed by Dispatch - Call Dispatch to confirm receipt

Main Activities	
Field Order 123 MAIN ST, OAKLEY, CA, 945611600107, USA, Residential Detached House, 1473600123/Dispatched (1 activity) / Scheduled 02-28-2017 Field Order ID 1473600576	
Premise ID	1473600123 123 MAIN ST, OAKLEY, CA, 945611600107, USA, Residential Detached House, 1473600123
Schedule Date/Time	02-28-2017 / 08:00AM
Field Order Status	Dispatched
Work Date/Time	/ <input type="text"/> <input type="text"/> <input type="button" value="Copy Field Order"/>
Dispatch Group	GSR2ANTI 5555555060 Gas Service Rep 2 - Antioch Extract in Next Run <input type="checkbox"/>
Worked by	<input type="text"/> Extract Date/Time
Representative	<input type="text"/>
Schedule Date/Time End	02-28-2017 / 08:00PM
Comments	No Access or Safety Issues;Address/Unit/Space #/Gate Codes:=Laundry room;EVAC; Xstr1=almeden blvd;Xstr2=delmas;Hissing/Blowing; Contact Name=Rev;Contact Phone=(408) 123-4567
Phone Type	Alternate Contact Phone Phone Number (408) 123-4567 Extension Phone Format (999) 999-9999
Field Order - 123 MAIN ST, OAKLEY, CA, 945611600107, USA, Residential Detached House, 1473600123/Dispatched (1 activity) / Scheduled 02-28-2017	
Field Activity - 1473607230 Gas-Mt-Res-Sm/Med-Standard, On-line User, Gas Leak Water Heater, Pending, Scheduled 02-28-2017 02:14PM	

Exhibit C

Process when **CC&B Scripting is Down** and a customer reports a gas leak, gas odor or anxiety about gas situation

- **USE CC&B SCRIPTING FOR ALL GAS LEAK OR GAS ODOR CALLS**
 - The process below should **ONLY** be used if CC&B scripting is down

- **Identify location of leak / odor**

- Confirm address / location - Ask the following
 - In the last 24 hours, have you had your sewer cleaned?
 - Is the odor is **INSIDE** or **OUTSIDE**
 - Can you provide any additional access information or any details that helps describe the physical location of the gas leak at the premise?
 - Are there any **ACCESS ISSUES** to the premise (locked gates/dogs)
 - Does the customer want to arrange for key drop off?
 - Contact Name
 - Contact Phone Number
 - Ask for the nearest **CROSS STREET**
 - Can you hear gas hissing or blowing?
 - Are Police / Fire / Media on site?
- **Issue Immediate Response Field Order**
 - Use appropriate Field Activity Type: **GASLEAKD, GASLEAKF, GASLEAKH, GASLEAKI, GASLEAKM, GASLEAKO, GASLEAKP, GASLEAKR, GASLEAKW, GLKXBORE, GLKCOMPI, GLKCOMPO**
 - Ensure priority code 10 is indicated
 - **In comments, note**
 - If CIA account
 - Indicate **CIA** first in comments
 - Severity (Blowing or Hissing)
 - If account has Proximity Ltr Alert
 - Indicate **PROXIMITY ALERT**
 - Caller mentions Gas Transmission Lines
 - Indicate Gas Transmission Line
 - Location (inside or outside)
 - Access and Dogs
 - Cross Streets
 - Name of caller

- Checking Pending Field Orders for Pilot Relight Request
 - Pilot Relight Order EXISTS
 - Cancel Field Activity
 - Use cancel reason code: CANCEL-OTHER FAS
 - [Indicate appropriate code in gas leak field order comments](#)
- **IR Field Order Confirmation**
 - **Green message**
 - No need to call dispatch
 - **Red message**
 - **Contact Dispatch IN ALL INSTANCES**
 - If phone system is not working
 - Use the [Dispatch Dial Codes](#)
- **Advise the customer to EVACUATE IMMEDIATELY**
 - For safety reasons, we advise everyone to immediately evacuate the building / area until personnel arrive
 - We will make every effort to respond within 1 hour
 - Leave everything as is
 - DO NOT turn off any appliances, light switches, etc
 - DO NOT hang up the phone - PG&E will disconnect the call
 - Please remain nearby the evacuated premise and watch for our service personnel
 - Thank you for calling
- **Under extreme conditions / customer anxiety**

Advise customer to call 911 from another premise