



December 23, 2013
 Safety Division
 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
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RE: 2013 Anti-Drug and Alcohol Misuse Inspection
 Air Liquide Industrial U.S. LP Kalama WA

In response to Safety Evaluation Summary conducted on November six and seventh, and the follow-up letter dated December 2, 2013, Air Liquide offers the following actions/correction plans addressing the probable violations and areas of concerns listed. All necessary corrective actions have either been implemented or have an implementation time frame identified.

RE: 2013 Anti-Drug and Alcohol Misuse Inspection Air Liquide Industrial U.S. LP Kalama WA

Probable Violations

Item No.1

Description:

49 CFR 199.113 Employee Assistance Program

(c) 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:

49 CFR 199.124 Training for Supervisors:

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

Inspectors Findings

Air Liquide could not provide records that Scott Moon, Operations Supervisor, Kalama WA had been trained as required.

Response:

The following steps have been taken to address compliance with 49 CFR 199.199 and CFR 199.241

Scott Moon completed the required 60 minutes of training on 12-13-2013 for Supervisor's Reasonable Suspicion/Cause for Drugs and Alcohol. Scott has also been registered with DISA and will be notified via e-mail when additional training is required. DISA will also notify Scott when state or federal regulatory compliance mandates are issued. Training documentation is available upon request.



Item No.2

49 CFR 40.111 When and how a laboratory must disclose statistical summaries and other information it maintains.

(a) As a laboratory, you must transmit an aggregate statistical summary, by employer, of the data listed in Appendix B to this part to the employer on a semi annual basis.

(1) The summary must not reveal the identity of any employee.

(2) In order to avoid sending data from which it is likely that information about an employee's test result can be readily inferred, you must not send a summary if the employer has fewer than five aggregate tests results.

(3) The summary must be sent by January 20 of each year for July 1 through December 31 of the prior year.

(4) The summary must also be sent by July 20 of each year for January 1 through June 30 of the current year.

Inspectors Findings

During the inspection, the statistical summaries required by this section could not be produced by Air Liquide. Air Liquide subsequently requested these summaries from the laboratory which did produce them. These reports are to be sent to the operator twice per year and Air Liquide needs to ensure their laboratory is complying. However, as the records could not be found, they could not verify compliance.

Response:

The following steps have been taken to address compliance with 49 CFR 40.111

Air Liquide's DER is working with all laboratories that are required to meet the requirements of this CFR in order to ensure a review of the semiannual aggregate statistical summary reports as outlined in section (a) 3&4. Air Liquide will use our PM and Maintenance generator (Maximo) to alert the Regulatory Compliance Manager when the reports are due. The regulatory compliance manager will contact the DER to assure that the reports have been received and reviewed. The MAXIMO PM's notifications will commence in June 2014.

Areas of Concern or Field Observations

Item No.1

Description:

1. 49 CFR 40.229 What devices are used to conduct alcohol screening tests?

EBTs and ASDs on the NHTSA conforming products lists (CPL) for evidential and non evidential devices are the only devices you are allowed to use to conduct alcohol screening tests under this part. You may use an ASD that is on the NHTSA CPL/or DOT alcohol tests only if there are instructions for its use in this part. An ASD can be used only for screening tests for alcohol, and may not be used for confirmation tests.



Finding(s):

Air Liquide's Plan states the following in Appendix B: "LIST OF APPROVED EVIDENTIAL BREATH TESTING DEVICES (EBTS) UTILIZED:

EBT Manufacture Name and EBT Model Name: Life loc Technologies Phoenix 6."

However, the operator approved specimen collection facility, Peace Health Medical Group, uses a Drager Alcol test 7410 Plus. This machine is on the NHTSA CPL, however, it should be listed in the Plan or language added to the Plan which allows other 11' ITSA approved EBTs to be used.

Response:

The following steps have been taken to address compliance with 49 CFR 40.229

The Air Liquide Drug and Alcohol plan was updated on 12-16-13 to reflect the use of all approved NHTSA, CPL/or DOT devices at all approved specimen collection facilities. The verbiage referencing Model Name: "Life loc Technologies Phoenix 6." has been deleted from the Air Liquide Drug and Alcohol plan.

Item No.2

Description:

49 CFR 40.40.43 What steps must operators of collection sites take to protect the security and integrity of urine collections?

(e) If you are operating a collection site, you must implement a policy and procedures to prevent unauthorized personnel from entering any part of the site in which urine specimens are collected or stored.

(1) Only employees being tested, collectors and other collection site workers, DERs, employee and employer representatives authorized by the employer (e.g., employer policy, collective bargaining agreement), and DOT agency representatives are authorized persons for purposes of this paragraph (e).

(2) Except for the observer in a directly observed collection or the monitor in the case of a monitored collection, you must not permit anyone to enter the urination facility in which employees provide specimens.

(3) You must ensure that all authorized persons are under the supervision of a collector at all times when permitted into the site. (4) You or the collector may remove any person who obstructs, interferes with, or causes a delay in the collection process.

Finding

In conducting the collection site walk through, it was noted that door to the collection area from lobby was not locked. It was also noted that specimens which have been collected and processed, are waiting to be shipped to various labs are not secure they are placed in a pass through area access to this area is not secure; the doors on each end were open and unlocked, although, according to staff, you must be escorted to be in this area This situation should be discussed with your consortium to ensure it complies with their requirements as well as the rule.

Response:

The following steps have been taken to address compliance with 49 CFR 40.43

The collection facility (Peace Health Medical Group) installed locked cabinets for the specimens. The particular date of the installation is unclear at this time. The keys for the locked cabinets are issued and controlled by authorized personnel only. Site is available for inspection upon request.

Feel free to contact me if you would like additional information. I can be reached at (713) 438-6351 or via e-mail at bobby.skelton@airliquide.com.

Sincerely,

Bobby L. Skelton
Pipeline Regulatory Compliance Manager
Air Liquide