



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 29, 2012

Mr. John Niemi
OP Reno LLC
540 Maryville Center Dr., Suite 340
St. Louis, MO 63141

CPF 5-2012-6005

Dear Mr. Niemi:

On September 13, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Operator Qualification program in Sparks, Nevada.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation is:

1. 195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;**
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**
- (c) 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;**
- (d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195;**
- (e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;**
- (f) Communicate changes that affect covered tasks to individuals performing those covered tasks;**
- (g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.**
- (h) After December 16, 2004, 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; and**
- (i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.**

OP Reno LLC did not have a written operator qualification (OQ) program at the time of the inspection. OP Reno LLC provided three fax copies of personnel training records from 2006 and 2009 which listed some covered tasks, however, these documents do not constitute a DOT-compliance OQ program. Pursuant to §195.505, OP Reno LLC must have and follow a written operator qualification program.

Proposed Compliance Order

With respect to item 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to OP Reno LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 5-2012-6005** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,


Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

cc: PHP-60 Compliance Registry
PHP-500 P. Nguyen (#133424)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to OP Reno LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of OP Reno LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to §195.505 Qualification program, OP Reno LLC must have and follow a written operator qualification program. The program must include provisions to:
 - (a) Identify covered tasks
 - (b) Ensure through evaluation that individuals performing covered tasks are qualified
 - (c) 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
 - (d) Evaluate an individual if there is reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195
 - (e) Evaluate an individual if there is reason to believe that the individual is no longer qualified to perform a covered task;
 - (f) Communicate changes that affect covered tasks to individuals performing those covered tasks;
 - (g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.
 - (h) After December 16, 2004, 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; and
 - (i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if OP Reno LLC significantly modifies the program after the Administrator or state agency has verified that it complies with this section.
2. Within 90 days from the Final Order, OP Reno LLC must complete the above Item Number 1.
3. It is requested (not mandated) that OP Reno LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.