



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

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

## **NOTICE OF AMENDMENT**

### **VIA E-MAIL TO MR. JAMES R. MCCLURE**

June 24, 2021

Mr. James R. McClure  
President  
Navajo Oil and Gas Company  
50 Narbono Circle West  
St. Michaels, AZ 86511

**CPF 5-2021-034-NOA**

Dear Mr. McClure:

From March 4, 2021 to May 18, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Navajo Nation Gas and Oil Company (NNGOC) PHMSA Drug and Alcohol (D&A) written plans and procedures by virtual and other electronic means.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within NNGOC plans or procedures, as described below:

#### **1. §199.101 Anti-drug plan.**

- (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;**
  - (2) The name and address of each laboratory that analyzes the specimens collected for drug testing;**
  - (3) The name and address of the operator's Medical Review Officer, and Substance Abuse Professional;**

The NNGOC Anti-Drug Plan (version 2) does not contain the names and addresses of the Substance Abuse Professional, Medical Review Officer, and each laboratory that analyzes the specimens collected for drug testing.

The plan is essentially a generic recitation and paraphrase of Parts 40 and 199, unclear on the roles of the Designated Employer Representative (DER) versus service agents, and incorrect on the classification of covered employees. Moreover, the plan was not maintained to reflect all the amendments to Parts 40 and 199.

## 2. §199.202 Alcohol misuse plan.

**Each operator must maintain and follow a written alcohol misuse plan that conforms to the requirements of this part and DOT Procedures concerning alcohol testing programs. The plan shall contain methods and procedures for compliance with all the requirements of this subpart, including required testing, recordkeeping, reporting, education and training elements.**

The NNGOC Alcohol Misuse Plan (version 2) is essentially a generic recitation and paraphrase of the PHMSA and DOT alcohol testing regulations, unclear on the roles of the DER versus service agents, and incorrect on the classification of covered employees. Moreover, the plan was not maintained to reflect all the amendments to Parts 40 and 199.

### Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. Enclose 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).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under §190.211. 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 an Order Directing Amendment. If your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 90 days of receipt of this Notice. This period may be extended by written request for good

cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested (not mandated) that Navajo Oil and Gas Company maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Dustin Hubbard, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 5-2021-034-NOA** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard  
Director, Western Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*