



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

901 Locust Street, Suite 480  
Kansas City, MO 64106

## NOTICE OF AMENDMENT

**VIA ELECTRONIC MAIL TO: Nicole.Kivisto@mdu.com and Patrick.Darras@mdu.com**

July 30, 2021

Nicole Kivisto  
President & CEO  
Montana-Dakota Utilities, Co.  
400 N 4<sup>th</sup> Street  
Bismarck, ND 58501

**CPF 3-2021-012-NOA**

Dear Ms. Kivisto:

From March 17, 2020 through November 12, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code, virtually inspected Montana-Dakota Utilities, Co.'s (MDU) operations and maintenance, operator qualification, public awareness, damage prevention, facilities and storage, time dependent threats, and emergency response procedures for its station in Bismarck, North Dakota.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within MDU's plans and procedures, as described below:

1. **§ 192.605 Procedural manual for operations, maintenance, and emergencies.**
  - (a)...
  - (b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.
    - (1)...
    - (8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

MDU's procedures were inadequate because they did not provide a process to periodically review the work done by operator personnel to determine the effectiveness, and adequacy

of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.605, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**2. § 192.605 Procedural manual for operations, maintenance, and emergencies.**

**(a)...**

**(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and normal operations.**

**(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.**

MDU's procedures were inadequate because they did not include a process for each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is adequate from the standpoint of capacity and reliability of operation for the service in which it is employed, as required by § 192.739(a)(2). During the inspection, PHMSA discovered that there were no procedures in place addressing relief devices being adequate from the standpoint of capacity and reliability of operation for the service in which it is employed.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.605 and § 192.739, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**3. § 192.805 Qualification program.**

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

**(a) Identify covered tasks;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because the identified covered tasks titles were broad in description and encompassed many covered tasks, rather than being a detailed list to include all covered tasks for its pipeline operations.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**4. § 192.805 Qualification program.**

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

**(a) Identify covered tasks**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) is inadequate because it did not contain covered tasks regarding launching and receiving pigs and ILI devices, tap and/or stopple of a transmission pipeline, pipefitting - screw thread fitting, and flange connections per ASME B31Q.

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* must be amended to include the mentioned missing covered tasks.

**5. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not include a process for ensuring operator qualification, evaluations, and performance of covered tasks during a merger or acquisition of other entities.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**6. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not provide a procedure for assessing the evaluation criteria and methods used by contractors performing covered tasks to determine if qualifications are consistent with operator requirements.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**7. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a visual acuity requirement for the non-destructive testing covered tasks.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**8. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a Performance Evaluation (PE) as part of qualifying for Covered Task 192-2705 Gas Control.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**9. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a procedure for individuals who fail to requalify.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**10. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it stated, "Periodic reevaluation need not be the same process as initial qualification but must address the knowledge, skills, capabilities and AOC's for the task." The procedure did not clarify the required reevaluation requirements if they differed from the initial ones.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**11. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a procedure on which a qualifying vendor's evaluations are based, are the same as, or consistent with those used by operator employees and contractors in the field.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**12. § 192.805 Qualification program.**

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

**(a)...**

**(b) Ensure through evaluation that individuals performing covered tasks are qualified;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it had an incorrect list of generic and task specific AOCs.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**13. § 192.805 Qualification program.**

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

**(a)...**

**(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;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it allowed individuals that are not qualified pursuant to this subpart to perform a covered task if directly supervised rather than the correct term directed and observed by an individual that is qualified.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**14. § 192.805 Qualification program.**

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

**(a)...**

**(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;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not provide guidance on span-of-control (SOC) for qualified individuals providing direction and observation of nonqualified individuals. MDU did not address factors (distance from worker; noise level affecting communication; ambient lighting; weather, etc.) that may influence the SOC, such as the ability of the qualified individual to direct the performance of the task by unqualified individuals.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**15. § 192.805 Qualification program.**

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

**(a)...**

**(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it does not include a requirement to immediately suspend an individual's qualifications to perform a specific covered task if there is reason to believe the individual may have contributed to an incident or accident while performing the task, pending the outcome of the investigation.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**16. § 192.805 Qualification program.**

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

**(a)...**

**(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

17. **§ 192.805 Qualification program.**  
**Each operator shall have and follow a written qualification program. The program shall include provisions to:**  
**(a)...**  
**(d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an incident as defined in Part 191.**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not reference Incident or Hazardous Condition Report – Form 23001.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

18. **§ 192.805 Qualification program.**  
**Each operator shall have and follow a written qualification program. The program shall include provisions to:**  
**(a)...**  
**(e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not include a requirement to suspend an individual's qualifications to perform a specific covered task if there is reason to believe the individual may no longer be qualified to perform the covered task.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

19. **§ 192.805 Qualification program.**  
**Each operator shall have and follow a written qualification program. The program shall include provisions to:**  
**(a)...**  
**(f) Communicate changes that affect covered tasks to individuals performing those covered tasks;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not specify how changes to the program or changes that affect covered tasks will be communicated to qualified individuals.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**20. § 192.805 Qualification program.**

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

**(a)...**

**(f) Communicate changes that affect covered tasks to individuals performing those covered tasks**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not specify how changes that affect covered tasks will be communicated to contractors.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**21. § 192.805 Qualification program.**

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

**(a)...**

**(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;**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not include any training requirements.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**22. § 192.807 Recordkeeping.**

**Each operator shall maintain records that demonstrate compliance with this subpart.**

(a)...

**(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a procedure on how the Operator will maintain records of its personnel qualifications for covered tasks as required by § 192.807.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.807, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

**23. § 192.807 Recordkeeping.**

**Each operator shall maintain records that demonstrate compliance with this subpart.**

(a)...

**(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.**

MDU's *Policy Statement, Operator Qualification Plan, OPS 800* (Revision Date: 5/31/2019) was inadequate because it did not have a procedure on how the Operator will maintain records of its contractor qualifications for covered tasks as required by § 192.807.

MDU submitted to PHMSA revised procedures that addressed the requirements of § 192.805, respectively. The revisions were reviewed and determined to be adequate.

No further correspondence from MDU will be required for this item.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 reply to my office within 30 days of receipt of this Notice stating such, as your revised procedures have already been reviewed and determine to be adequate. This period may be extended by written request for good cause.

It is requested (not mandated) that MDU Utilities Group maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Gregory A. Ochs, Director, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2021-012-NOA** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs  
Director, Central Region OPS  
Pipeline and Hazardous Materials Safety Administration

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

cc: Patrick Darras, VP of Engineering and Operations Services, [Patrick.Darras@mdu.com](mailto:Patrick.Darras@mdu.com)