



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 1, 2008

Mr. Jeryl Mohn
Sr. Vice President
Florida Gas Transmission Company
5444 Westheimer Rd
Houston, TX 77056-5306

CPF 4-2008-1014M

Dear Mr. Mohn:

On December 11-14, 2006, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your procedures and records for Operator Qualification (OQ) in Houston, Texas for the OQ Plan used by Florida Gas Transmission Company and Transwestern Pipeline Company, designated by FGTW.

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

1. §192.805 Qualification Program

Each operator shall have and follow a written qualification program.

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

a. §192.803 Definitions.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

- (a) written examination;**
- (b) oral examination;**
- (c) work performance history review;**
- (d) observation during:**
 - (1) performance on the job,**
 - (2) on the job training, or**
 - (3) simulations; or**
- (e) other forms of assessment.**

Qualified means that an individual has been evaluated and can:

- (a) perform assigned covered tasks and**
- (b) recognize and react to abnormal operating conditions.**

At the time of the inspection, FGTW did not address program integration following a merger or acquisition. FGTW must amend its OQ Plan to address program integration following a merger or acquisition, and it needs to apply to qualified employees and contractor individuals. Specifically the program integration needs to include the following: review the acquired company's 'qualification and evaluation methods' for each covered task; where the qualification and or evaluation method is inadequate, provide necessary training and or evaluation, and disallow an individual from performing the covered task until the training and or evaluation is complete; it needs to be clear that it applies to both contractors and employees; and it must address OQ training for operating acquired equipment not previously used by the Operator.

b. §192.803 Definitions.

Abnormal operating condition means a condition identified by the operator that may indicate a malfunction of a component or deviation from normal operations that may:

- (a) indicate a condition exceeding design limits; or**
- (b) result in a hazard(s) to persons, property, or the environment.**

Qualified means that an individual has been evaluated and can:

- (a) perform assigned covered tasks and**
- (b) recognize and react to abnormal operating conditions.**

At the time of the inspection, FGTW did not address an investigation path that goes from an accident investigation back to the OQ plan to address Abnormal Operating Condition (AOC) evaluations for those covered tasks that were associated with the accident. FGTW must amend its plan to address an investigation path that goes from an accident investigation back to the OQ plan to address AOC evaluations for those covered tasks that were associated with the accident. Specifically the evaluation should include evaluation of the appropriate reaction to an AOC and ensure that the AOCs listed for a covered task are those that could be reasonably anticipated during performance of that task.

2. §192.805 Qualification Program

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(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;

At the time of the inspection, FGTW did not specify span of control by covered task. FGTW must amend its OQ Plan to provide a reasonable span of control for each covered task. The spans of control should be established through the use of a comparative analysis (one which assesses the relative difficulty, importance, and frequency of performance of the various tasks, commonly known as a "DIF" analysis).

3. §192.805 Qualification Program

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(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;

At the time of the inspection, FGTW did not clarify what will occur regarding a contractor individual being suspended pending an incident investigation. FGTW must amend its OQ Plan to show how it will track a contractor individual that is suspended from a covered task and report it 'company wide' until the accident investigation is complete or the person has been re-qualified.

4. §192.805 Qualification Program

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

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;

At the time of the inspection, FGTW did not fully describe how it includes Veriforce relative to correction of individual performance problems for contract individuals. FGTW must amend its OQ Plan to show how it communicates with Veriforce or another third party provider to report and monitor the correction of individual performance problems for contract individuals.

5. §192.805 Qualification Program

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(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.

At the time of inspection, FGTW did not address the notifications to the appropriate agencies when significant modifications are made to the OQ program. FGTW's OQ Plan must be revised to address the notifications to the appropriate agencies when significant modifications are made to their OQ program.

6. §192.807 Recordkeeping.

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

(a) Qualification records shall include:

- (1) Identification of qualified individual(s);**
- (2) Identification of the covered tasks the individual is qualified to perform;**
- (3) Date(s) of current qualification; and**
- (4) Qualification method(s).**

(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.

At the time of the inspection, FGTW stated that records are retained using database back-up and off-site storage, however, the OQ Plan did not state that the database is backed-up and stored off-site. FGTW must amend its OQ Plan to describe how often the database is backed-up and where it is stored in order to ensure continued availability of the information required to meet the rule requirements.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. 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.

If, after opportunity for a hearing, 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. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 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.

In correspondence concerning this matter, please refer to **CPF 4-2008-1014M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

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