



ILLINOIS COMMERCE COMMISSION

CERTIFIED MAIL

July 23, 2015

Mr. Charles Matthews, President
North Shore Gas Company
200 E. Randolph Street
Chicago, IL 60601

Re: Notice of Amendments (NOA #'s 2015-A001-00012 through 2015-A001-00016)

Dear Mr. Matthews:

Representatives of the Illinois Commerce Commission Pipeline Safety Program ("Staff") conducted a review of the North Shore Gas Company ("North Shore") Combined Anti-Drug and Alcohol Misuse Plan (Drug and Alcohol Plan) on March 31, 2015 – April 3, 2015 (Inspection # 2015-P-00240). The audit has established that North Shore's Drug and Alcohol Plan is inadequate.

Below is the applicable section of the Code of Federal Regulations ("CFR") and the subsection language applicable to the violation. Following the CFR or subsection language is a description of each inadequacy.

NOA # 2015-A001-00015

CFR §40.25 titled: **"Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?"** states in paragraph (b), (1) – (5), "You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer: Alcohol tests with a result of 0.04 or higher alcohol concentration; Verified positive drug tests; Refusals to be tested (including verified adulterated or substituted drug test results); Other violations of DOT agency drug and alcohol testing regulations; and With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee."

The Drug and Alcohol Plan must require drug and alcohol testing records from a previous employer if the job applicant has been performing safety-sensitive duties for a DOT-regulated employer.

NOA # 2015-A001-00016

CFR §40.109 titled: **“What documentation must the laboratory keep, and for how long?”** states in paragraph (a), “As a laboratory, you must retain all records pertaining to each employee urine specimen for a minimum of two years.”

The Drug and Alcohol plan does not stipulate that the laboratory must retain all records pertaining to each employee urine specimen for a minimum of two years and also keep for two years employer-specific data required

NOA # 2015-A001-00013

CFR §40.31 titled: **“Who may collect urine specimens for DOT drug testing?”** states in paragraph (c), “As the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations.”

The Drug and Alcohol Plan does not state that, as the immediate supervisor of an employee being tested, you may not act as the collector when that employee is tested, unless no other collector is available and you are permitted to do so under DOT agency drug and alcohol regulations

NOA # 2015-A001-00014

CFR §40.69 titled: **“How is a monitored collection conducted?”** states in paragraph (b), “As the collector, you must ensure that the monitor is the same gender as the employee, the monitor is a medical professional (e.g., nurse, doctor, physician’s assistant, technologist, or technician licensed or certified to practice in the jurisdiction in which the takes place). The monitor can be a different person from the collector and need not be a qualified collector.”

The Drug and Alcohol Plan does not state that, as the collector, you must ensure that the monitor is the same gender as the employee, unless the monitor is a medical professional (e.g., nurse, doctor, physician’s assistant, technologist, or technician licensed or certified to practice in the jurisdiction in which the collection takes place). The monitor can be a different person from the collector and need not be a qualified collector.

CFR §199.117 titled: **“Recordkeeping”** states in paragraph (a) (2) “Each operator shall keep the following records for the periods specified and permit access to the records as provided by paragraph (b) of this section: Records of employee drug test that indicate a verified positive result, records that demonstrate compliance with the recommendations of a substance abuse professional, and MIS annual report data shall be maintained for a minimum of five years.”

Appendix D for FMCSA states that Statistical Summaries must be retained for 5 years, however, this information is not listed in Appendix D for PHMSA Record retention

This letter serves as notice of inadequate procedures. A written response to this notice is requested by August 24, 2015. If you are contesting this Notice, include a detailed written explanation and any necessary supporting documents with your response.

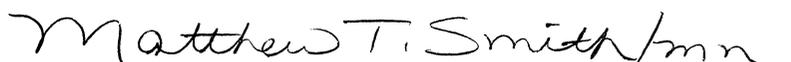
If you are not contesting this Notice, the written response must acknowledge that amended procedures will be provided to this office by October 21, 2015. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed. Any correspondence must include the Inspection Report Number as well as the corresponding NOA Number.

Failure to respond to this Notice and take corrective action will result in the issuance of a Notice of Probable Violation and initiation of a Citation Order that will subject North Shore Gas Company to a penalty assessment as allowed under Section 7 of the Illinois Gas Pipeline Safety Act (220 ILCS 20/7).

Please be advised that pursuant to IL Adm. Code Part 596 of the Commission’s Rules, all information regarding this inspection in possession of the Commission, including communications regarding this inspection will be made available to the public and posted on the Commission’s website. Confidential and/or personal information including, but not limited to social security numbers, drivers license numbers, credit card numbers, debit card numbers, and medical records, etc. should be included in neither inspection documents nor correspondence with the Commission. Any person, as set forth in Section 596.20, who believes that any inspection information is confidential or proprietary shall request that the Commission enter an order to protect the confidential or proprietary information pursuant to 83 Ill. Adm. Code 200.430.

If you have any questions concerning this matter, please contact Don Hankins at 217-415-4440, or I may be contacted at (217) 785-1165.

Sincerely,


Matthew T. Smith
Interim Program Manager - Pipeline Safety

Cc: Ms. Jodi Caro, VP Legal Services