



## **Nebraska State Fire Marshal Pipeline Safety Section Inspection Report**

**SFM Deputy Conducting Inspection:**

**Stephen Lucas**

**Call#:**

**8715**

**Report Date:**

**03/15/2012**

**Inspection Type:**

**Operator Qualification: Plan and records**

**Inspection Date(s):**

**March 13, 14, & 15, 2012**

**Operator Name:**

**Tyson Fresh Meats**

**Unit:**

**Headquarters**

**Town/Site:**

**Lexington**

**Facility ID:**

**30-01-000**

**Nebraska State Fire Marshal, Pipeline Safety**

**OPERATOR INSPECTION-SPECIFIC INFORMATION**

<b>Inspection Date(s):</b>	March 13, 2012 through March 15, 2012		
<b>Name of Operator:</b>	Tyson Fresh Meats		
<b>OPS Operator ID:</b>	32222		
<b>State/Other ID:</b>	30-01-000		
<b>H.Q. Address:</b> Tyson Fresh Meats 800 Stevens Port Dr. Suite 709 Dakota Dunes, SD 57049	<b>Company Officer:</b>	Glen Heron	
	<b>Title:</b>	PSM Area Manager	
	<b>Phone Number:</b>	(605) 235-2387	
	<b>Fax Number:</b>	(479) 757-6621	
<b>Web Site:</b>	/www.tysonfoods.com	<b>Email Address:</b>	Glen.Heron@tyson.com
<b>Employees Covered by OQ Plan:</b>	12		
<b>Contractors Covered by OQ Plan:</b>	3 Contractors - 4 personnel		
<b>Total Mileage Represented:</b>	3.5		

Persons Interviewed	Title	Phone Number	Email Address
Glen Heron	PSM Area Manager	(605) 235-2387	<a href="mailto:Glen.Heron@tyson.com">Glen.Heron@tyson.com</a>
Chris Hiserote	WWTP Superintendent – Dakota City	(635) 235-2047	<a href="mailto:chris.hiserote@tyson.com">chris.hiserote@tyson.com</a>
Mark Carnes	WWTP Superintendent - Lexington	(308) 324-8158	<a href="mailto:mark.carnes@tyson.com">mark.carnes@tyson.com</a>

*To add rows, press TAB with cursor in last cell.*

State Fire Marshal Representatives	Phone:	Email Address
Deputy Stephen Lucas	(402) 720-1103	<a href="mailto:stephen.lucas@nebraska.gov">stephen.lucas@nebraska.gov</a>
Deputy Mike Stromitis	(308) 530-5003	<a href="mailto:mike.stromitis@nebraska.gov">mike.stromitis@nebraska.gov</a>

*To add rows, press TAB with cursor in last cell.*

**Remarks:**

NOPV 20120416 written April 16, 2012.

## *Nebraska State Fire Marshal, Pipeline Safety*

### **Mileage Covered by OQ Plan (by Company and State)**

List each company and subsidiary separately, broken down by state (using 2-letter designation). If a company has intrastate and/or interstate mileage in several states, use one row per state. If there are both gas and liquid lines, use both the first and second table. For small gas operators (e.g. master meter, LP), use the third table.

#### **Jurisdictional to Part 192 (Gas) Mileage**

Company (Gas Operator)	Operator ID	State	Interstate Gathering	Intrastate Gathering	Interstate Transmission	Intrastate Transmission	Interstate Distribution*	Intrastate Distribution*	Remarks
Tyson Fresh Meats	32222	NE				3.5			

(To add rows, press TAB with cursor in last cell.)

#### **Jurisdictional to Part 195 (Hazardous Liquid) Mileage**

Company (Liquid Operator)	Operator ID	State	Interstate Transmission	Intrastate Transmission	Remarks

(To add rows, press TAB with cursor in last cell.)

#### **Jurisdictional to Part 192 (Gas) Mileage – Small Operators**

Company (Small Gas Operator)	Operator ID	State	Small Gas (e.g., master meter)*	LP*	Remarks

(To add rows, press TAB with cursor in last cell.)

1. Supply company name and Operator ID, if not the master operator from the first page (i.e., for subsidiary companies).
2. Use OPS-assigned Operator ID. Where not applicable, leave blank or enter n/a.
3. Use only 2-letter state codes in column #3, e.g., TX for Texas.
4. Enter number of applicable miles in all other columns. (Only positive values. No need to enter 0 or n/a.)
5. \* Please do not include Service Line footage. This should only be MAINS.

## *Nebraska State Fire Marshal, Pipeline Safety*

### **1 - Document Program Plan, Implementing Procedures and Qualification Criteria**

#### ***1.01 Application and Customization of “Off-the-Shelf” Programs***

Does the operator’s plan identify covered tasks and does it specify task-specific reevaluation intervals for individuals performing covered tasks? **(Associated Protocols: 1.05, 2.01, 5.02)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson developed their own OQ plan. The OQ plan is Chapter 6 of their O & M plan and starts on page 21. Eric Johnston developed the program originally.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### ***1.02 Contractor Qualification***

Does the operator employ contractor organizations to provide individuals to perform covered tasks? If so, what are the methods used to qualify these individuals and how does the operator ensure that contractor individuals are qualified in accordance with the operator’s OQ program plan?

\* Verify that the operator’s written program includes provisions that require all contractor and subcontractor individuals be evaluated and qualified prior to performing covered tasks, unless the covered task is performed by a non-qualified individual under the direction and observation of a qualified individual. **(Associated Protocols: 1.05, 2.02, 3.02)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: On projects where a Contractor is used Tyson evaluates the Contractor's Procedures and Qualifications to ensure they meet Tyson's requirements. If Tyson approves the contractors procedures they are adopted by Tyson.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### ***1.03 Management of Other Entities Performing Covered Tasks***

Has the operator’s OQ program included provisions that require individuals from any other entity performing covered task(s) on behalf of the operator (e.g., through mutual assistance agreements) be evaluated and qualified prior to task performance?

\* Verify that other entities that perform covered task(s) on behalf of the operator are addressed under the operator’s OQ program and that individuals from such other entities performing covered tasks on behalf of the operator are evaluated and qualified consistent with the operator’s program requirements. **(Associated Protocols: 1.05, 2.02)**

<input type="checkbox"/> No Issues Identified	Inspection Notes: Not foreseeable, the probability of an event ever occurring is not likely.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input checked="" type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

*Nebraska State Fire Marshal, Pipeline Safety*

## *Nebraska State Fire Marshal, Pipeline Safety*

### **1.04 Training Requirements (Initial Qualification, Remedial if Initial Failure, and Reevaluation)**

Does the operator's OQ program plan contain policy and criteria for the use of training in initial qualification of individuals performing covered tasks, and are criteria in existence for re-training and reevaluation of individuals if qualifications are questioned? **(Associated Protocols: 5.02)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson has a program, PSM, (Process Safety Management) they use for training initially and subsequent re-qualifying of individuals.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

### **1.05 Written Qualification Program**

Did the operator meet the OQ Rule requirements for establishing a written operator qualification program and completing qualification of individuals performing covered tasks?

- \* Verify that the operator's written qualification program was established by April 27, 2001.
- \* Verify that the written qualification program identified all covered tasks for the operator's operations and maintenance functions being conducted as of October 28, 2002.
- \* Verify that the written qualification program established an evaluation method(s) to be used in the initial qualification of individuals performing covered tasks as of October 28, 2002.
- \* Verify that all individuals performing covered tasks as of October 28, 2002, and not otherwise directed or observed by a qualified individual were qualified in accordance with the operator's written qualification program. **(Associated Protocols: 3.01, 7.01)**

<input type="checkbox"/> No Issues Identified	Inspection Notes: Tyson's pipeline was built in 2005 with their initial OQ plan as part of their PSM's and was later added upon a later SFM inspection requirement.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input checked="" type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### **2 - Identify Covered Tasks and Related Evaluation Methods**

#### **2.01 Development of Covered Task List**

How did the operator develop its covered task list?

\* Verify that the operator applied the four-part test to determine whether 49 CFR Part 192 or 49 CFR Part 195 O&M activities applicable to the operator are covered tasks.

\* Verify that the operator has identified and documented all applicable covered tasks. (**Associated Protocols: 8.01**)

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson had developed their plan as part of their PSM's and after applying each task to the 4 part test for the pipeline, created a list specifically for qualifying each task for their pipelines.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### **2.02 Evaluation Method(s) (Demonstration of Knowledge, Skill and Ability) and Relationship to Covered Tasks**

Has the operator established and documented the evaluation method(s) appropriate to each covered task?

\* Verify what evaluation method(s) has been established and documented for each covered task.

\* Verify that the operator's evaluation program ensures that individuals can perform assigned covered tasks.

\* Verify that the evaluation method is not limited to observation of on-the-job performance, except with respect to tasks for which OPS has determined that such observation is the best method of examining or testing qualifications. The results of any such observations shall be documented in writing. (**Associated Protocols: 3.01, 3.02**)

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: The re-evaluation process for qualification of the person is a very good process. The source of the evaluation questions is the actual procedure specified by Tyson Management. No "canned" material is used.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### **2.03 Planning for Mergers and Acquisitions (Due Diligence re: Acquiring Qualified Individuals)**

Does the operator have a process for managing qualifications of individuals performing covered tasks during program integration following a merger or acquisition (applicable only to operators engaged in merger and acquisition activities)?

\* Verify that the OQ program describes the process for ensuring OQ qualifications, evaluations, and performance of covered tasks during the merger with or acquisition of other entities. **(Associated Protocols 3.01 3.02)**

<input type="checkbox"/> No Issues Identified	Inspection Notes: No mergers or acquisitions, although Tyson after building the history of their pipelines they are very much aware of the requirement.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input checked="" type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### **3 - Identify Individuals Performing Covered Tasks**

#### ***3.01 Development/Documentation of Areas of Qualification for Individuals Performing Covered Tasks***

Does the operator's program document the evaluation and qualifications of individuals performing covered tasks, and can the qualification of individuals performing covered tasks be verified?

\* Verify that the operator's qualification program has documented the evaluation of individuals performing covered tasks.

\* Verify that the operator's qualification program has documented the qualifications of individuals performing covered tasks. **(Associated Protocols: 4.02, 7.01)**

<input type="checkbox"/> No Issues Identified	Inspection Notes: Limited documentation concerning AOC during evaluation process
<input checked="" type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### ***3.02 Covered Task Performed by Non-Qualified Individual***

Has the operator established provisions to allow non-qualified individuals to perform covered tasks while being directed and observed by a qualified individual, and are there restrictions and limitations placed on such activities?

\* Verify that the operator's program includes provisions for the performance of a covered task by a non-qualified individual under the direction and observation by a qualified individual. **(Associated Protocols: 2.01, 2.02)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson does allow non-qualified individuals but stated no more than one to one for non-qualification
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### **4 - Evaluate and Qualify Individuals Performing Covered Tasks**

#### ***4.01 Role of and Approach to “Work Performance History Review”***

Does the operator use work performance history review as the sole method of qualification for individuals performing covered tasks prior to October 26, 1999, and does the operator's program specify that work performance history review will not be used as the sole method of evaluation for qualification after October 28, 2002?

\* Verify that after October 28, 2002, work performance history is not used as a sole evaluation method.

\* Verify that individuals beginning work on covered tasks after October 26, 1999 have not been qualified using work performance history review as the sole method of evaluation. **(Associated Protocols: 2.02)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Work Performance is not used to qualify an individual and is not used to re-qualify.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### ***4.02 Evaluation of Individual’s Capability to Recognize and React to AOCs***

Are all qualified individuals able to recognize and react to AOCs? Has the operator evaluated and qualified individuals for their capability to recognize and react to AOCs? Are the AOCs identified as those that the individual may reasonably anticipate and appropriately react to during the performance of the covered task? Has the operator established provisions for communicating AOCs for the purpose of qualifying individuals?

\* Verify that individuals performing covered tasks have been qualified in recognizing and reacting to AOCs they may encounter in performing such tasks. **(Associated Protocols 3.01)**

<input type="checkbox"/> No Issues Identified	Inspection Notes: Tyson in their new PSMF 607 tests individuals on their ability to recognize and react to AOC's. Although AOC's are evaluated the questions are not recorded on the evaluation sheet.
<input checked="" type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### 5 - Continued/Periodic Evaluation of Individuals Performing Covered Tasks

#### **5.01 Personnel Performance Monitoring**

Does the operator's program include provisions to evaluate an individual if the operator has reason to believe the individual is no longer qualified to perform a covered task based on: covered task performance by an individual contributed to an incident or accident; other factors affecting the performance of covered tasks?

\* Verify that the operator's program ensures re-evaluation of individuals whose performance of a covered task may have contributed to an incident or accident.

\* Verify that the operator has established provisions for determining whether an individual is no longer qualified to perform a covered task, and requires reevaluation.

**(Specific Protocols: 2.02)**

<input checked="" type="checkbox"/> No Issues Identified	<b>Inspection Notes:</b> If an incident occurs according to Tyson, this may even be a non-reportable incident to SFM or to PMSA, the personnel involved is evaluated to determine if they contributed to the incident.  If the Supervisor suspects an individual is not qualified there are provisions in place to require re-evaluation.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### **5.02 Reevaluation Interval and Methodology for Determining the Interval**

Has the operator established and justified requirements for reevaluation of individuals performing covered tasks?

\* Verify that the operator has established intervals for reevaluating individuals performing covered tasks. **(Associated Protocols: None)**

<input checked="" type="checkbox"/> No Issues Identified	<b>Inspection Notes:</b> Tyson Supervision has re-evaluated the interval for each task twice since the initial inception of OQ and have determined 3 year re-evaluation time is proper.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

**Nebraska State Fire Marshal, Pipeline Safety**

**6 - Monitor Program Performance; Seek Improvement Opportunities**

**6.01 Program Performance and Improvement**

Does the operator have provisions to evaluate performance of its OQ program and implement improvements to enhance the effectiveness of its program?

**(Associated Protocols: None)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: No issues as the OQ Program is reviewed annually as part of the O & M in which there are procedures requiring annual review per 192.605.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### **7 - Maintain Program Records**

**7.01 Qualification “Trail” (i.e., covered task; individual performing; evaluation method(s); continuing performance evaluation; reevaluation interval; reevaluation records)**

Does the operator maintain records in accordance with the requirements of 49 CFR 192, subpart N, and 49 CFR 195, subpart G, for all individuals performing covered tasks, including contractor individuals?

- \* Verify that qualification records for all individuals performing covered tasks include the information identified in the regulations.
- \* Verify that the operator's program ensures the retention of records of prior qualification and records of individuals no longer performing covered tasks for at least five years.
- \* Verify that the operator's program ensures the availability of qualification records of individuals (employees, contractors and third party entities) currently performing covered tasks, or who have previously performed covered tasks. **(Associated Protocols: 1.05, 3.01)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson in past history has used their PSM's for evaluating their personnel. The individuals performing tasks since 2009 have been properly OQ'd to perform the tasks they have been assigned.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

## *Nebraska State Fire Marshal, Pipeline Safety*

### 8 - Manage Change

#### **8.01 Management of Changes (to Procedures, Tools, Standards, etc.)**

Does the operator's OQ program identify how changes to procedures, tools standards and other elements used by individuals in performing covered tasks are communicated to the individuals, including contractor individuals, and how these changes are implemented in the evaluation method(s)?

- \* Verify that the operator's program identifies changes that affect covered tasks and how those changes are communicated, when appropriate, to affected individuals.
- \* Verify that the operator's program identifies and incorporates changes that affect covered tasks.
- \* Verify that the operator's program includes provisions for the communication of changes (e.g., who, what, when, where, why) in the qualification program to the affected individuals.
- \* Verify that the operator incorporates changes into initial and subsequent evaluations.
- \* Verify that contractors supplying individuals to perform covered tasks for the operator are notified of changes that affect task performance and thereby the qualification of these individuals.

**(Associated Protocols 1.04)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Tyson PSM's require MOC procedures for any change to procedures, tools, standards for any of their operations which already meets 192 requirements. Suggestion made to include reference of the MOC in OQ plan.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

#### **8.02 Notification of Significant Program Changes**

Does the operator have a process for identifying significant OQ written program changes and notifying the appropriate regulatory agency of these changes once the program has been reviewed?

- \* Verify that the operator's written program contains provisions to notify OPS or the appropriate regulatory agency of significant modifications to a program that has been reviewed for compliance.

**(Associated Protocols: None)**

<input checked="" type="checkbox"/> No Issues Identified	Inspection Notes: Such a notice may be caused by: (a) Increase of evaluation interval. (b) Deletion of previously identified covered tasks in the program. (c) Change in evaluation methods.
<input type="checkbox"/> Potential Issues Identified (explain)	
<input type="checkbox"/> N/A (explain)	
<input type="checkbox"/> Not Inspected	
Check exactly one box above.	

1. Wholesale changes made to an OQ Plan or Program, whether due to an overall effort to improve program performance, or due to a merger or acquisition that results in incorporating the best features of the competing plans and programs.
2. Recommend the operator send a letter to accompany the program that addresses the changes made to the program. The official notification should be addressed to headquarters.

*Nebraska State Fire Marshal, Pipeline Safety*

**9 – Field Inspection Findings**

**Additional Inspection Notes;**

A Notice of Probable Violation will be issued citing 192.805 (b), that evaluation of the ability of an individual to recognize and react to an Abnormal Operating Condition has not been documented by the OQ program records.

# STATE OF NEBRASKA



## Notice of Probable Violation

Dave Heineman  
Governor

STATE FIRE MARSHAL  
John Falgione  
Fire Marshal

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 18, 2012

Glen Heron  
Area PSM/RMP/DHS Manager  
Tyson Fresh Meats, Inc.  
800 Stevens Port Drive, Suite 709  
Dakota Dunes, SD 57049

Subject: Notice of Probable Violation

On March 13, 14, and 15, 2012, representatives of Nebraska State Fire Marshal's Office, Pipeline Safety Division, pursuant to the Nebraska Natural Gas Pipeline Safety Act of 1969, conducted an inspection of the Tyson's Operator Qualification Procedures and records at your Lexington, Nebraska facility. As a result of this inspection it appears that you have committed a probable violation of Title 155 Nebraska Administrative Code Chapter 1.001 adopting by reference Pipeline Safety Regulations Title 49, Code of Federal Regulations, Part 191, 192, 199, & 40.

The following details the specific findings of the inspection as they relate to the probable violation. The item in blue is the Part 192 reference followed in black by our finding.

#### §192.803 Definitions...

Qualified means that an individual has been evaluated and can:

- (a) Perform assigned covered tasks; and
- (b) Recognize and react to abnormal operating conditions.

Tyson's Operator Qualification Program documentation shall include a process where any abnormal operating condition that a covered individual may encounter is addressed during the evaluation process. These records shall be completed and kept on file for each covered individual.

□ MAIN OFFICE  
□ DISTRICT A  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-2027

□ DISTRICT B  
438 West Market  
Albion, NE 68620-1241  
(402) 395-2164

□ DISTRICT C  
200 South Silber  
North Platte, NE 69101-4219  
(308) 535-8181

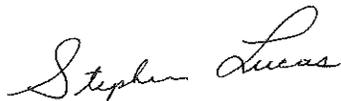
■ FUELS DIVISION  
□ FLST ■ Pipeline  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-9465

□ TRAINING DIVISION  
2410 North Wheeler Avenue  
Suite 112  
Grand Island, NE 68801-2376  
(308) 385-6892

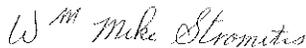
Whenever the State Fire Marshal has reason to believe any person is violating any provision of subsection (1) of section 81-545 of the Nebraska Natural Gas Pipeline Safety Act of 1969 or any regulation under the Nebraska Natural Gas Pipeline Safety Act of 1969, the State Fire Marshal may request the Attorney General of Nebraska to bring an action under section 81-547 of the Nebraska Natural Gas Pipeline Safety Act of 1969 in the district court of the county in which the defendant's principal place of business is located. The district court may impose a civil penalty not to exceed ten thousand dollars for each violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars for any related series of violations. The district court shall have jurisdiction to restrain violations of the Nebraska Natural Gas Pipeline Safety Act of 1969 including the restraint of transportation of gas or the operation of a pipeline facility

We request that Tyson Fresh Meats, Incorporated respond to within 30 days of receipt of this letter and reference **#20120418-N** on the return correspondence to our office. The response may accept the finding and state a plan of action to address the finding or, the response may disagree with the finding. If Tyson Fresh Meats chooses to disagree with the finding, please justify your position in the response.

If you have any questions regarding the substance or propriety of this notice, please contact our office at, Nebraska State Fire Marshal, Pipeline Safety, 246 South 14th Street, Lincoln, NE, 68508-1804 or telephone 402-471-9664.



Stephen Lucas, Deputy  
Fuels Division, Pipeline Section  
Nebraska State Fire Marshal



Mike Stromitis, Deputy  
Fuels Division, Pipeline Section  
Nebraska State Fire Marshal



Clark Conklin, Chief Deputy  
Fuels Division  
Nebraska State Fire Marshal



Tyson Foods, Inc.

Received on:  
MAY 03 2012  
NE State Fire Marshal

April 30, 2012

State Fire Marshal  
Pipeline Section, Fuel Division  
246 South 14th Street  
Lincoln, NE 68508-1804

**RE:** Tyson Fresh Meats, Inc. – Lexington, Nebraska  
Notice of Probable Violation  
Reference #20120418-N

Dear Sirs:

Regarding the above referenced Notice of Probable Violation, below is information concerning the actions and changes that Tyson Fresh Meats, Inc. (Tyson) has taken updating the Operator Qualification (OQ) documentation.

Although Tyson does not necessarily concur with the alleged Notice of Probable Violation, Tyson has modified OQ documents to include operators identifying Abnormal Operating Conditions (AOC) and what action(s) operators take to resolve identified AOC's. During the 2012 Nebraska Pipeline Safety Seminar, I reviewed a sample of our revised OQ documents with Deputy Fire Marshal Stephen Lucas and Deputy Fire Marshal Mike Stromitis. They agreed that the updated OQ documentation would meet the requirements of section 192.803, and based on this conversation, we have subsequently modified our OQ documentation.

Please contact me at 605.235.2387 or [glen.heron@tyson.com](mailto:glen.heron@tyson.com) if you have any questions or require any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Heron".

Glen Heron  
Sr. Area Manager PSM/RMP

Certified Mail # 7099 3400 0015 9226 5761

Environmental, Health & Safety Services  
800 Stevens Port Drive, DD #709 Dakota Dunes, SD 57049-8709  
Telephone: 605-235-2061

**NEBRASKA STATE FIRE MARSHAL - PIPELINE SAFETY SECTION  
FOLLOW-UP INSPECTION:**

<b>Name of Operator:</b>	Tyson Fresh Meats, Inc.	<b>SFM ID #:</b> 30-01-000
<b>Operator Address:</b> Tyson Fresh Meats, Inc. Suite 709 800 Stevens Port Drive Dakota Dunes, SD 57049	<b>Phone Number:</b> (605) 235-2387 <b>Fax Number:</b> <b>Emergency Number:</b>	
<b>Persons Interviewed</b>	<b>Title</b>	<b>Phone No.</b>
Chris Hiserote	WWTP Superintendent Dakota City	(605) 235-3189
<b>Persons conducting Inspection</b> Stephen Lucas	<b>Date:</b> 06-06-2013	
<b>Description:</b> Code 192.803 <b>Date of Letter:</b> 4-18-2012 <b>Type:</b> NOPV <b>Disposition:</b> Closed		
<b>Portion of Unit Inspected:</b> Covered task descriptions and Records of Operator Qualification Evaluation in Dakota City, NE		

**Comments:**

Inspected of covered task descriptions and evaluations for covered tasks performed since May 2012 I did find abnormal operationg conditions covered.



**Nebraska State Fire Marshal**  
**Pipeline Safety Section**  
**NOPV-CONCERN CORRECTION FOLLOW-UP**

**SFM Deputy Conducting Inspection:**

**Mike Stromitis**

**Call#:**

**8731**

**Report Date:**

**7/8/2013**

**Correction of Violation**

**Inspection Date(s):**

**Violation to 155 : 20120418-N**

**July 8, 2013**

**Operator Name:**

**Unit:**

**Town/Site:**

**Facility ID:**

**Tyson Fresh Meats**

**Lexington**

**Lexington**

**30-01-000**

# NEBRASKA STATE FIRE MARSHAL – PIPELINE SAFETY DIVISION

## ***FOLLOW-UP INSPECTION***

**Name of Operator:** Tyson Fresh Meats      **SFM ID #:**20120418-N  
**Operator Address:**  
Tyson Fresh Meats      **Phone Number:** (605) 235-2387  
800 Stevens Port Dr.      **Fax Number:** (479) 757-6621  
Suite 709      **Emergency Number:** (308) 324-8102-Lexington  
Dakota Dunes, SD 57049

<b>Persons Interviewed</b>	<b>Title</b>	<b>Phone No.</b>
Glen Heron	PSM Area Manager	(605) 235-2387
Mark Carnes	WWTP Superintendent - Lexington	(308) 324-8158

**Persons conducting Inspection**      **Date:** 07-08-2014  
**NSFM Deputy Mike Stromitis**  
**Description:**

**Issue:** Pipeline Personnel's Qualification procedures did not include a process to identify pipeline's abnormal operating condition and reaction expected of personnel.

Code 192.803      **Date of Letter:** 04-17-2012      **Type:** NOPV

**Remarks:** On July 8, 2013 meeting with Mr. Carnes and Mr. Heron at Lexington's Waste Water Treatment Plant, I reviewed the Task description updates and the evaluations of the pipeline personnel at the Lexington facility which were conducted since Deputy Lucas and my inspections in March of 2012 and found abnormal operating conditions are covered.

**Issue:**

Code 192.      **Date of Letter:**      **Type:**

**Remarks:**

**Issue:**

Code 192.      **Date of Letter:**      **Type:**

**Remarks:**

**Deputy Signature:** \_\_\_\_\_

*W<sup>MI</sup> Mike Stromitis*

*Wm Mike Stromitis*

*Deputy Pipeline Safety*

*State Fire Marshal*

# STATE OF NEBRASKA



## Letter of Approval

Dave Heineman  
Governor

Jim Heine  
Fire Marshal

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 14, 2013

Glen Heron  
Area PSM/RMP/DHS Manager  
Tyson Fresh Meats, Inc.  
800 Stevens Port Drive  
Suite 709  
Dakota Dunes, SD 57049

Re: Notice of Probable Violation issued April 18, 2012 – #20120418-N

Thank you for your April 30, 2012 response to our Notice of Probable Violation. Compliance follow-up inspections pertaining to this issue were conducted by this office on June 6 and July 8, 2013. As a result of your actions and the findings of our inspections, the following Notice of Probable Violation is considered resolved.

#### §192.803 Definitions

If you have any questions regarding the substance or propriety of this notice, please contact our office at, Nebraska State Fire Marshal, Pipeline Safety, 246 South 14<sup>th</sup> Street, Lincoln, NE 68508-1804 or telephone 402-471-9465.

Stephen Lucas, Deputy  
Fuels Division, Pipeline Section  
Nebraska State Fire Marshal

Mike Stromitis, Deputy  
Fuels Division, Pipeline Section  
Nebraska State Fire Marshal

Clark Conklin, Chief Deputy  
Fuels Division  
Nebraska State Fire Marshal

□ MAIN OFFICE  
□ DISTRICT A  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-2027

□ DISTRICT B  
438 West Market  
Albion, NE 68620-1241  
(402) 395-2164

■ FUELS DIVISION  
□ FLST ■ Pipeline  
246 South 14<sup>th</sup> Street  
Lincoln, NE 68508-1804  
(402) 471-9465

□ TRAINING DIVISION  
2410 North Wheeler Avenue  
Suite 112  
Grand Island, NE 68801-2376  
(308) 385-6892