



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

Office of
Chief Counsel

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***Hazardous Materials Safety Law
Division***

NOTICE OF PROBABLE VIOLATION

Date Issued: 5/13/2025

PHMSA Case No.: 25-0078-SH-CE

Respondent: Surefire Wireline West LLC
55065 Bennett Industrial Drive
Williston, North Dakota 58801
ATTN: Steve Finnan, President (sfinnan@surefirewireline.com)

No. of Alleged Violations: 5

Total Proposed Assessment: \$21,300

The Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration (PHMSA) alleges that you have violated certain provisions of the Federal hazardous materials transportation law, 49 U.S.C. § 5101 *et seq.*, and/or the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. PHMSA sets forth the specific allegations in Addendum A to this Notice.

What are the maximum and minimum civil penalties that PHMSA can assess? Federal law sets a maximum civil penalty of \$99,756 (or \$232,762 if the violation results in death, serious illness or severe injury, or substantial destruction of property), and a minimum civil penalty of \$601 if the violation concerns training, for each violation of the Federal hazardous materials transportation law or the HMR. Each day of a continuing violation by a shipper or transporter of hazardous materials constitutes a separate violation for which the maximum penalty may be imposed (49 U.S.C. § 5123(a)).

What factors does PHMSA consider when proposing and assessing a civil penalty? Federal law requires PHMSA to consider certain factors when proposing and assessing a civil penalty for a violation of Federal hazardous materials transportation law or the HMR. Please refer to Addendum B to this Notice for more information concerning these factors, which include corrective actions you take to attain and ensure compliance with the HMR.

How do I respond? You may respond to this Notice in any of three ways:

- (1) By paying the proposed assessment (49 CFR § 107.313(a)(1));
- (2) By sending an informal response, which can include a request for an informal conference (49 CFR § 107.313(a)(2)); or
- (3) By requesting a formal hearing (49 CFR § 107.313(a)(3)).

Details on these three options are provided in Addendum B to this Notice and also online at: (<https://www.phmsa.dot.gov/hazmat/field-operations/nopvresponses>). PHMSA explains its procedures for assessing civil penalties and imposing compliance orders in 49 CFR §§ 107.307 - 107.331.

When is my response due? You must respond within thirty (30) days from the date that you receive the Notice (49 CFR § 107.313(a)). I may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period (49 CFR § 107.313(c)). A response received out of time will not be considered. To assure timely receipt, **PHMSA strongly encourages you to submit your response by e-mail.**

What happens if I fail to respond? You waive your right to contest the allegations made in Addendum A to this Notice if you fail to respond within thirty (30) days of receiving it (or by the end of any extension). In that event, the Chief Counsel may find that you committed the violation(s) alleged in this Notice and assess an appropriate civil penalty.

What happens if PHMSA issues an Order assessing a civil penalty, and I fail to pay? If you fail to pay a civil penalty assessed by an Order, on the 91st day after the date of the Order you will be prohibited from conducting hazardous materials operations, in accordance with 49 CFR Part 109, Subpart E. If PHMSA issues a cease operations order and you continue to conduct hazardous materials operations, you may be subject to additional penalties, including criminal prosecution pursuant to 49 U.S.C. 5124. The prohibition shall continue until payment of the penalty has been made in full, or until PHMSA approves an acceptable payment plan.

The Case Exhibits will be supplied to you in a PDF format using DOT's Secure Large File Transfer System via the link in an email to follow, which will be active for the next 30 days. If receiving the Case Exhibits in electronic format creates an undue hardship for you, please contact me.

SAFIYA AKUA Digitally signed by SAFIYA
AKUA HAMIT BORIE
HAMIT BORIE Date: 2025.05.13 08:18:56
-04'00'

Safiya Borie, Attorney

Enclosures: Addendum A
Addendum B
Addendum C

cc: Brian Sell, Safety Manager (bsell@surefirewireline.com)

SERVICE BY ELECTRONIC MAIL

GENERAL ALLEGATIONS

General Factual Allegations/Averments

1. On October 23, 2024, PHMSA's investigator conducted a site visit at Respondent's facility in Williston, North Dakota.
2. Brian Sell, Safety Manager, represented the company and provided necessary information and documentation.
3. Respondent is a manufacturer, shipper, and transporter of Class 1.4 explosives, in Jet Perforating Guns, IME-22 boxes, and UN standard 4G boxes and a transporter of Class 5.1 hazardous materials in non-DOT specification cylinders.
4. As a manufacturer, shipper, and transporter of hazardous materials, Respondent is a regulated entity subject to the HMR and to the jurisdiction of the Secretary of Transportation, PHMSA's Associate Administrator for Hazardous Materials Safety, and PHMSA's Office of the Chief Counsel (49 U.S.C. § 5103(b) and 49 CFR § 107.301).

SPECIFIC ALLEGATIONS

Probable Violation No. 1

Offering and transporting in commerce an unapproved explosive device, in violation of 49 CFR §§ 171.2(a), (b), & (e); 173.51(a); 173.54(a); and 173.56(b).

Regulatory Standard

1. Pursuant to 49 CFR § 171.2(a), each person who performs a function covered by this subchapter must perform that function in accordance with the HMR.
2. Pursuant to 49 CFR § 171.2(b), each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials.
3. Pursuant to 49 CFR § 171.2(e), no person may offer or accept a hazardous material for transportation in commerce unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter.
4. Pursuant to 49 CFR § 173.51(a), unless otherwise provided in this subpart, no person may offer for transportation or transport an explosive, unless it has been tested and classed and approved by the Associate Administrator (§ 173.56).
5. Pursuant to 49 CFR § 173.54(a), an explosive that has not been approved in accordance with § 173.56 of this subpart shall not be offered for transportation or transported.
6. Pursuant to 49 CFR § 173.56(b), no person may offer a new explosive for transportation unless that person has specified to the examining agency the ranges of composition of ingredients and compounds, showing the intended manufacturing tolerances in the composition of substances or design of articles which will be allowed in that material or device, and unless it has been examined, classed and approved as follows:
 - Except for an explosive made by or under the direction or supervision of the Department of Defense (DOD) or the Department of Energy (DOE), a new explosive must be examined and assigned a recommended shipping description, division and compatibility group, based on the tests and criteria prescribed in §§ 173.52, 173.57 and 173.58. The person requesting approval of the new explosive must submit to the Associate Administrator a report of the examination and assignment of a recommended shipping description, division, and compatibility group. If the Associate Administrator finds the approval request meets the

regulatory criteria, the new explosive will be approved in writing and assigned an EX number. The examination must be performed by a person who is approved by the Associate Administrator under the provisions of subpart H of part 107 of this chapter and who—

- i. Has (directly, or through an employee involved in the examination) at least ten years of experience in the examination, testing and evaluation of explosives;
- ii. Does not manufacture or market explosives, and is not controlled by or financially dependent on any entity that manufactures or markets explosives, and whose work with respect to explosives is limited to examination, testing and evaluation; and
- iii. Is a resident of the United States.

Factual Allegations/Averments

1. During the site visit at Respondent's facility in Williston, North Dakota on October 23, 2024, PHMSA's investigator observed and photographed a metal tube marked and labeled as, "UN0494, Jet Perforating Gun, 1.4D" in Respondent's company truck #417. (See Exhibit 2 to Report No. 24548037).
2. Respondent's representative was unable to provide PHMSA's investigator with Respondent's PHMSA approval, and PHMSA's investigator was unable to find an approval issued to Respondent when he searched PHMSA's Portal for approvals.
3. Respondent's representative provided PHMSA's investigator with copies of shipping papers for Respondent's previous shipments of the jet perforating gun in commerce. (See Exhibit 3 to Report No. 24548037).
 - a. Shipping Form, service order #22358, dated October 18, 2024 – a shipment of four "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 15.6167 gr. per unit and two "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to whiting, ttt ranch 4-6tfh, mountrail.
 - b. Shipping Form, service order #22359, dated October 18, 2024, indicating, three "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 3.4 gr. per unit and six "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to RS State D No. 155-92-0203H-9, Mountrail County, ND.
 - c. Shipping Form, service order #22364, dated October 18, 2024, indicating, two "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with

a Net Explosive Content (NEC) of 14.8167 gr. per unit and two “UN0255, Detonators, electric, for blasting, 1.4B,” with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent’s facility to BR 44-15h 52, Richland, MT.

7. PHMSA’s investigator obtained the safety data sheet for the explosive material in the jet perforating gun, indicating that it is a hazardous material. (See Exhibit 4 to Report No. 24548037).
 - Safety data sheet for Shaped Charges, Division 1.1 (Casing Cutters, Encapsulated Perforators, or Open-Faced Perforators), dated 3/19/2014 – Section 14: UN0059, Charges, shaped, without detonator, 1.1D.
8. In a written statement signed and dated by Respondent’s representative on 10/23/2024, Mr. Sell stated that Respondent offered and transported UN0494, Jet Perforating Guns, Charged, oil well, 1.4D, without detonator" on or about 10/18/2024 without an approval from PHMSA. (See Exhibit 5 to Report No. 24548037).

On or about October 18, 2024, Respondent offered and transported in commerce an unapproved explosive device, in violation of the HMR.

- Please see Inspection/Investigation Report Number 24548037 at pages 3-5, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 2

Offering and transporting in commerce, a hazardous material, while failing to mark and label the package, in violation of 49 CFR §§ 171.2(a), (b), (e) & (f); 172.101; 172.300(a); 172.301(a)(1); 172.320; and 172.400(a)(1).

Regulatory Standard

1. Pursuant to 49 CFR § 171.2(a), each person who performs a function covered by this subchapter must perform that function in accordance with the HMR.
2. Pursuant to 49 CFR § 171.2(b), each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials.
3. Pursuant to 49 CFR § 171.2(e), no person may offer or accept a hazardous material for transportation in commerce unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by

applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter.

4. Pursuant to 49 CFR § 171.2(f), no person may transport a hazardous material in commerce unless the hazardous material is transported in accordance with applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter. Each carrier who transports a hazardous material in commerce may rely on information provided by the offeror of the hazardous material or a prior carrier, unless the carrier knows or, a reasonable person, acting in the circumstances and exercising reasonable care, would have knowledge that the information provided by the offeror or prior carrier is incorrect.
5. Pursuant to 49 CFR § 172.101, the Hazardous Materials Table entry for UN0255 is:
 - Column (1) Symbols: “ “
 - Column (2) hazardous materials descriptions and proper shipping names: Detonators, electric, for blasting
 - Column (3) Hazard class: 1.4B
 - Column (4) Identification number: UN0255
 - Column (5) PG: “ “
 - Column (6) Label codes: 1.4B
6. Pursuant to 49 CFR § 172.300(a), each person who offers a hazardous material for transportation shall mark each package, freight container, and transport vehicle containing the hazardous material in the manner required by this subpart.
7. Pursuant to 49 CFR § 172.301(a)(1), each person who offers a hazardous material for transportation in a non-bulk packaging must mark the package with the proper shipping name and identification number (preceded by “UN”, “NA” or “ID,” as appropriate), as shown in the § 172.101 Hazardous Materials Table. The identification number marking preceded by “UN”, “NA”, or “ID” as appropriate must be marked in characters at least 12 mm (0.47 inches) high. Packages with a maximum capacity of 30 liters (8 gallons) or less, 30 kg (66 pounds) maximum net mass, or cylinders with a water capacity of 60 liters (16 gallons) or less must be marked with characters at least 6 mm (0.24 inches) high. Packages with a maximum capacity of 5 liters (1.32 gallons) or less or 5 kg maximum net mass (11 pounds) or less must be marked in a size appropriate for the size of the package.
8. Pursuant to 49 CFR § 172.320, each package containing a Class 1 material must be marked with the EX-number for each substance, article or device contained therein.
9. Pursuant to 49 CFR § 172.400(a)(1), each person who offers for transportation or transports a hazardous material in a non-bulk package, shall label the package or

containment device with labels specified for the material in the § 172.101 table and in this subpart:

Factual Allegations/Averments

1. During the site visit at Respondent's facility in Williston, North Dakota on October 23, 2024, PHMSA's investigator observed and photographed an IME SLP-22 box in the bed of Respondent's company truck #417 recently used to transport hazardous materials. (See Exhibit 2 to Report No. 24548037).
 - a. The photographs show that the box does display a hazard label, UN ID number, proper shipping name, or EX number, as required.
2. Respondent's representative provided PHMSA's investigator with copies of shipping papers for Respondent's previous shipments of detonators in commerce without the required marking and labelling. (See Exhibit 3 to Report No. 24548037).
 - a. Shipping Form, service order #22358, dated October 18, 2024 – a shipment of four "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 15.6167 gr. per unit and four "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to whiting, ttt ranch 4-6tfh, mountrail.
 - b. Shipping Form, service order #22359, dated October 18, 2024, indicating, three "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 3.4 gr. per unit and six "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to RS State D No. 155-92-0203H-9, Mountrail County, ND.
 - c. Shipping Form, service order #22364, dated October 18, 2024, indicating, two "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 14.8167 gr. per unit and two "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to BR 44-15h 52, Richland, MT.
3. Respondent's representative provided PHMA's investigators with the safety data sheet for the detonator, indicating that it is hazardous materials. (See Exhibit 6 to Report No. 24548037).
 - a. Safety data sheet for Electronic & Electronic Detonators, dated 9/18/2017 – Section 14: UN0255, Detonators, electric, for blasting, 1.4B.
4. In a written statement signed and dated by Respondent's representative on 10/23/2024, Mr. Sell stated that Respondent offered and transported UN0255, Detonators, Electric for blasting, 1.4B on or about 10/18/2024, without the proper shipping name, UN ID number,

hazard label, and EX number on the outer packaging (See Exhibit 5 to Report No. 24548037).

On or about October 18, 2024, Respondent offered and transported in commerce, a hazardous material, while failing to mark and label the package, in violation of the HMR.

- Please see Inspection/Investigation Report Number 24548037 at pages 6-9, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 3

Offering and transporting in commerce, a hazardous material that is poisonous by inhalation, while failing to develop a security plan, in violation of 49 CFR §§ 171.2(a), (b)&(e); 171.8; 172.101; 172.102 Special Provision 2; 172.800(b)(5); and 172.802(a).

Regulatory Standard

1. Pursuant to 49 CFR § 171.2(a), each person who performs a function covered by this subchapter must perform that function in accordance with this subchapter.
2. Pursuant to 49 CFR § 171.2(b), each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials.
3. Pursuant to 49 CFR § 171.2(e), no person may offer or accept a hazardous material for transportation in commerce unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter.
4. Pursuant to 49 CFR § 171.8, material poisonous by inhalation or material toxic by inhalation means:
 - A gas meeting the defining criteria in § 173.115(c) of this subchapter and assigned to Hazard Zone A, B, C, or D in accordance with § 173.116(a) of this subchapter;
 - A liquid (other than as a mist) meeting the defining criteria in § 173.132(a)(1)(iii) of this subchapter and assigned to Hazard Zone A or B in accordance with § 173.133(a) of this subchapter; or
 - Any material identified as an inhalation hazard by a special provision in column 7 of the § 172.101 table.

5. Pursuant to 49 CFR § 172.101, the Hazardous Materials Table entry for UN1746 is:
- Column (1) Symbols: +
 - Column (2) hazardous materials descriptions and proper shipping names: Bromine trifluoride
 - Column (3) Hazard class: 5.1
 - Column (4) Identification number: UN1746
 - Column (5) PG: I
 - Column (6) Label codes: 5.1, 6.1, 8
 - Column (7) Special provisions 2, B9, B14, B32, T22, TP2, TP13, TP38, TP45
6. Pursuant to § 172.102 Special Provision 2, this material is poisonous by inhalation (see § 171.8 of this subchapter) in Hazard Zone B (see § 173.116(a) or § 173.133(a) of this subchapter), and must be described as an inhalation hazard under the provisions of this subchapter.
7. Pursuant to 49 CFR § 172.800(b)(5), each person who offers for transportation in commerce or transports in commerce any quantity of a material poisonous by inhalation, as defined in § 171.8 of this subchapter must develop and adhere to a transportation security plan for hazardous materials that conforms to the requirements of this subpart.
8. Pursuant to 49 CFR § 172.802(a), the security plan must include an assessment of transportation security risks for shipments of the hazardous materials listed in § 172.800, including site-specific or location-specific risks associated with facilities at which the hazardous materials listed in § 172.800 are prepared for transportation, stored, or unloaded incidental to movement, and appropriate measures to address the assessed risks. Specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. At a minimum, a security plan must include the personnel security, unauthorized access, and en route security.

Factual Allegations/Averments

1. During the site visit at Respondent's facility in Williston, North Dakota on October 23, 2023, PHMSA's representative provided PHMSA's investigator with copies of shipping papers for Respondent's previous shipments of Bromine Trifluoride in commerce. (See Exhibit 8 to Report No. 24548037).

- a. Hazmat Shipping Form, Service Order #12602, dated February 2, 2023 – a shipment of one cylinder of “UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI,” totaling 0.16405 gal. from Respondent’s facility to Michael State No. 31X-16, Williams County, North Dakota
 - b. Hazmat Shipping Form, Service Order #22292, dated October 13, 2024 – a shipment of one cylinder of “UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI,” totaling 0.16405 gal. from Respondent’s facility to Dahl Federal No. 15-11H.
 - c. Hazmat Shipping Form, Service Order #22369, dated October 19, 2024 – a shipment of one cylinder of “UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI,” totaling 0.02378 gal. from Respondent’s facility to Chord, Dunn, ND.
5. In a written statement signed and dated by Respondent’s representative on 10/23/2024, Mr. Sell stated that Respondent offered and transported a placardable amount of UN1746, Bromine Trifluoride (Poison Inhalation Hazard, Zone B), 5.1, (6.1), (8), PGI, on 3/15/2022, 2/2/2023, and 10/14/2024 and did not create a security plan. (See Exhibit 5 to Report No. 24548037).
6. Respondent’s representative provided PHMSA’s investigator with the safety data sheet for Bromine Trifluoride, indicating that it is a hazardous material. (See Exhibit 9 to Report No. 24548037).
 - a. Safety data sheet for Bromine Trifluoride, dated 6/16/2015 – Section 14: UN1746, Bromine Trifluoride, 5.1 (6.1, 8), I.

On or about October 19, 2024, Respondent offered and transported in commerce, a hazardous material that is poisonous by inhalation, while failing to develop a security plan, in violation of the HMR.

- Please see Inspection/Investigation Report Number 24548037 at pages 10-12, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 4

Allowing employees to perform a function subject to the requirements of the hazardous materials regulations when the hazmat employee had not received initial hazmat training to include general awareness, function specific, safety, and security awareness, in violation of 49 CFR §§ 171.2(a), (b), & (e); 172.702(a) & (b); 172.704(a)(1), (2), (3), & (4); and 172.704(c)(1) & (4).

Regulatory Standard

1. Pursuant to 49 CFR § 171.2(a), each person who performs a function covered by this subchapter must perform that function in accordance with the HMR.
2. Pursuant to 49 CFR § 171.2(b), each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials.
3. Pursuant to 49 CFR § 171.2(e), no person may offer or accept a hazardous material for transportation in commerce unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption or special permit, approval, or registration issued under this subchapter or subchapter A of this chapter.
4. Pursuant to 49 CFR § 172.702(a), a hazmat employer shall ensure that each of its hazmat employees is trained in accordance with the requirements prescribed in this subpart.
5. Pursuant to 49 CFR § 172.704(a)(1)-(4), hazmat training must include general awareness/familiarization, function-specific, safety, and security awareness training.
6. Pursuant to 49 CFR § 172.704(c)(1), a new hazmat employee, or a hazmat employee who changes job functions may perform those functions prior to the completion of training provided:
 - The employee performs those functions under the direct supervision of a properly trained and knowledgeable hazmat employee; and
 - The training is completed within 90 days after employment or a change in job function.
7. Pursuant to 49 CFR § 172.704(c)(4), each hazmat employer is responsible for compliance with the requirements of this subchapter regardless of whether the training required by this subpart has been completed.

Factual Allegations/Averments

1. During the site visit at Respondent's facility in Williston, North Dakota on October 23, 2024, Respondent's representative was unable to provide the hazmat training records for Respondent's hazmat employees Ryne Silvensky and Eric Huwe. (See Exhibit 7 to Report No. 24548037).

2. Respondent's representative provided PHMSA's investigator with copies of shipping papers for Respondent's previous shipments of hazardous materials in commerce that were prepared by its hazmat employees. (See Exhibit 8 to Report No. 24548037).
 - a. Shipping Form, service order #22358, dated October 18, 2024 – a shipment of four "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 15.6167 gr. per unit and two "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to whiting, ttt ranch 4-6tth, mountrail.
 - b. Shipping Form, service order #22359, dated October 18, 2024, indicating, three "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 3.4 gr. per unit and six "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to RS State D No. 155-92-0203H-9, Mountrail County, ND.
 - c. Shipping Form, service order #22364, dated October 18, 2024, indicating, two "UN0494, Jet Perforating Guns, charged, oil well, without detonator, 1.4D," with a Net Explosive Content (NEC) of 14.8167 gr. per unit and two "UN0255, Detonators, electric, for blasting, 1.4B," with a Net Explosive Content (NEC) of 0.48 gr per unit from Respondent's facility to BR 44-15h 52, Richland, MT.
3. In a written statement signed and dated by Respondent's representative on 10/23/2024, Mr. Sell stated that Respondent prepared, offered, and transported UN0494, Jet Perforating Guns, Charged, oil well, 1.4D without detonator without providing initial hazmat training to employees, Eric Huwe, and Ryne Slivensky. (See Exhibit 5 to Report No. 24548037).
4. PHMSA's investigator obtained the safety data sheet for the explosive material in the jet perforating gun, indicating that it is a hazardous material. (See Exhibit 4 to Report No. 24548037).
 - a. Safety data sheet for Shaped Charges, Division 1.1 (Casing Cutters, Encapsulated Perforators, or Open-Faced Perforators), dated 3/19/2014 – Section 14: UN0059, Charges, shaped, without detonator, 1.1D.

On or about October 18, 2024, Respondent allowed employees to perform a function subject to the requirements of the hazardous materials regulations when the hazmat employee had not received initial hazmat training to include general awareness, function specific, safety, and security awareness, in violation of the HMR.

- Please see Inspection/Investigation Report Number 24548037 at pages 13-16, and the exhibits that accompany this report, which are incorporated herein.

Probable Violation No. 5

Offering and transporting in commerce a hazardous material, while failing to register and pay registration fees as a shipper of hazardous materials, in violation of 49 CFR 171.2(a), (b), & (d); 107.601(a)(6); 107.608(a) & (b); 107.612; 172.101, 172.102 Special Provision 2, and 172.505(a).

Regulatory Standard

1. Pursuant to 49 CFR § 171.2(a), each person who performs a function covered by this subchapter must perform that function in accordance with this subchapter.
2. Pursuant to 49 CFR § 171.2(b), each person who offers a hazardous material for transportation in commerce must comply with all applicable requirements of this subchapter, or an exemption or special permit, approval, or registration issued under this subchapter or under subchapter A of this chapter. There may be more than one offeror of a shipment of hazardous materials.
3. Pursuant to 49 CFR § 171.2(d), no person may offer or accept a hazardous material for transportation in commerce or transport a hazardous material in commerce unless that person is registered in conformance with subpart G of part 107 of this chapter, if applicable.
4. Pursuant to 49 CFR § 107.601(a)(6), the registration and fee requirements of this subpart apply to any person who offers for transportation, or transports, in foreign, interstate or intrastate commerce a quantity of hazardous material that requires placarding, under provisions of subpart F of part 172 of this chapter.
5. Pursuant to 49 CFR § 107.608(a), each person subject to this subpart must submit a complete and accurate registration statement on DOT Form F 5800.2 not later than June 30 for each registration year, or in time to comply with paragraph (b) of this section, whichever is later. Each registration year begins on July 1 and ends on June 30 of the following year.
6. Pursuant to 49 CFR § 107.608(b), no person required to file a registration statement may transport a hazardous material or cause a hazardous material to be transported or shipped, unless such person has on file, in accordance with § 107.620, a current Certificate of Registration in accordance with the requirements of this subpart.
7. Pursuant to 49 CFR § 107.612, for purposes of determining the applicable annual registration fee specified in paragraph (b) of this section, the following classification applies to each person required to register and pay a registration fee:
 - Small business. A person that qualifies as a small business, under criteria specified in 13 CFR part 121 applicable to the North American Industry Classification System (NAICS) code that describes that person's primary commercial activity.

- Not-for-profit organization. An organization exempt from taxation under 26 U.S.C. 501(a).
 - Other than a small business or not-for-profit organization. Each person that does not meet the criteria specified in paragraph (a)(1) or (a)(2) of this section.
8. Pursuant to 49 CFR § 172.101, the Hazardous Materials Table entry for UN1746 is:
- Column (1) Symbols: +
 - Column (2) hazardous materials descriptions and proper shipping names: Bromine trifluoride
 - Column (3) Hazard class: 5.1
 - Column (4) Identification number: UN1746
 - Column (5) PG: I
 - Column (6) Label codes: 5.1, 6.1, 8
 - Column (7) Special provisions 2, B9, B14, B32, T22, TP2, TP13, TP38, TP45
9. Pursuant to § 172.102 Special Provision 2, this material is poisonous by inhalation (see § 171.8 of this subchapter) in Hazard Zone B (see § 173.116(a) or § 173.133(a) of this subchapter), and must be described as an inhalation hazard under the provisions of this subchapter.
10. Pursuant to 49 CFR § 172.505(a), each transport vehicle, freight container, portable tank, unit load device, or rail car that contains a poisonous material subject to the “Poison Inhalation Hazard” shipping description of § 172.203(m) must be placarded with a POISON INHALATION HAZARD or POISON GAS placard, as appropriate, on each side and each end, in addition to any other placard required for that material in § 172.504. Duplication of the POISON INHALATION HAZARD or POISON GAS placard is not required.

Factual Allegations/Averments

1. During inspection site visit at Respondent’s facility in Williston, North Dakota on October 23, 2024, Respondent’s representative was unable to provide Respondent’s Hazardous Materials Certificate of Registration, and PHMSA’s investigator was unable to locate any hazmat registration for Respondent’s in PHMSA’s portal system.

2. Respondent's representative provided PHMSA's investigator with copies shipping papers for Respondent's previous shipments of hazardous materials in commerce requiring placarding. (See Exhibit 8 to Report No. 24548037).
 - a. Hazmat Shipping Form, Service Order #12602, dated February 2, 2023 – a shipment of one cylinder of "UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI," totaling 0.16405 gal. from Respondent's facility to Michael State No. 31X-16, Williams County, North Dakota
 - b. Hazmat Shipping Form, Service Order #22292, dated October 13, 2024 – a shipment of one cylinder of "UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI," totaling 0.16405 gal. from Respondent's facility to Dahl Federal No. 15-11H.
 - c. Hazmat Shipping Form, Service Order #22369, dated October 19, 2024 – a shipment of one cylinder of "UN1746, Bromine Trifluoride (Poison-Inhalation Hazard, Zone B) DOT-SP 14796, 5.1 (6.1, 8), PGI," totaling 0.02378 gal. from Respondent's facility to Chord, Dunn, ND.
3. Respondent's representative provided PHMSA's investigator with the safety data sheet for Bromine Trifluoride, indicating that it is a hazardous material. (See Exhibit 9 to Report No. 24548037).
 - a. Safety data sheet for Bromine Trifluoride, dated 6/16/2015 – Section 14: UN1746, Bromine Trifluoride, 5.1 (6.1, 8), I.
4. In a written statement signed and dated by Respondent's representative on 10/23/2024, Mr. Sell stated that Respondent offered and transported a placardable amount of "UN1746, Bromine Trifluoride (Poison Inhalation Hazard, Zone B), 5.1, (6.1), (8), PGI," on 3/15/2022, 2/2/2023, and 10/14/2024, without having a hazmat registration (See Exhibit 5 to Report No. 24548037).

On or about October 19, 2024, Respondent offered and transported in commerce a hazardous material, while failing to register and pay registration fees as a shipper of hazardous materials, in violation of the HMR.

- Please see Inspection/Investigation Report Number 24548037 at pages 17-19, and the exhibits that accompany this report, which are incorporated herein.

FACTS ALREADY CONSIDERED (UNDER 49 CFR § 107.331) IN SETTING PROPOSED PENALTIESPrior Violations:

When setting a civil penalty, PHMSA will review the respondent's compliance history and determine if there are any finally-adjudicated violations of the HMR initiated within the previous six years. Only cases or tickets that have been finally-adjudicated will be considered (i.e., the ticket has been paid, a final order has been issued, or all appeal remedies have been exhausted or expired). PHMSA will include prior violations that were initiated within six years of the present case; a case or ticket will be considered to have been initiated on the date of the exit briefing for both the prior case and the present case. If multiple cases are combined into a single Notice of Probable Violation or ticket, the oldest exit briefing will be used to determine the six-year period. If a situation arises where no exit briefing is issued, the date of the Notice of Probable Violation or Ticket will be used to determine the six-year period. PHMSA may consider prior violations of the Hazardous Materials Regulations from other DOT Operating Administrations.

The general standards for increasing a baseline proposed penalty on the basis of prior violations are as follows (49 CFR Part 107, Subpart D, Appendix A):

1. For each prior civil or criminal enforcement case—25 percent increase over the pre-mitigation recommended baseline penalty.
2. For each prior ticket—10 percent increase over the pre-mitigation recommended baseline penalty.
3. If a respondent is cited for operating under an expired special permit and previously operated under an expired special permit (as determined in a finally-adjudicated civil, criminal, or administrative enforcement case or a ticket), PHMSA will increase the civil penalty 100 percent.
4. If a respondent is cited for the exact same violation that it has been previously cited for within the six-year period (in a finally-adjudicated civil, criminal, or administrative enforcement case or a ticket), PHMSA will increase the baseline for that violation by 100 percent. This increase will apply only when the present violation is identical to the previous violation and applies only to the specific violation that has recurred.
5. A baseline proposed penalty (both for each individual violation and the combined total) will not be increased more than 100 percent on the basis of prior violations.

PHMSA's records do not contain any prior violations by Respondent and PHMSA did not consider any prior violations in determining the proposed assessment for the violation in this Notice.

Corrective Action:

An important purpose of PHMSA's enforcement program is to bring the regulated community into compliance with the HMR, and to promote ongoing efforts by that community to maintain compliance. In determining the final penalty assessment, PHMSA considers documented evidence of actions taken by a Respondent to correct violations and ensure that they do not recur (49 CFR § 107.331(g)).

In its November 21, 2024 letter, Respondent addressed the actions it has taken to correct the violations alleged in this Notice and to prevent future violations of the HMR. Respondent described and documented its corrective action as follows:

- Violation No.1: Respondent has obtained approvals from PHMSA for two EX approvals for Jet Perforating Guns, tube and strip systems without detonators, as well as the tube and tube systems without detonators and provided copies of the approvals. (See Exhibit 10 to Report No. 24548037).
 - Based on this information and documentation, the proposed penalty has been reduced by 25% (as indicated below).
- Violation No.2: Respondent has marked and labeled their IME boxes for detonators and provided a photograph of the markings and label on one of the boxes. (See Exhibit 10 to Report No. 24548037).
 - Based on this information and documentation, the proposed penalty has been reduced by 25% (as indicated below).
- Violation No.3: Respondent has created and implemented a Security Plan, and PHMSA's investigator has reviewed the plan and completed a Security Plan Evaluation form. (See Exhibit 10 to Report No. 24548037).
 - Based on this information and documentation, the proposed penalty has been reduced by 25% (as indicated below).
- Violation No.4: Respondent has provided hazmat training to its employees, which included in-depth security and provided training certificates for employees Eric Huwe and Ryan Silvensky. (See Exhibit 10 to Report No. 24548037).
 - Based on this information and documentation, the proposed penalty has been reduced by 25% (as indicated below).
- Violation No.5: Respondent has obtained hazmat registration, paying fees for registration periods July 1, 2022 - June 20, 2025 and provided a copy of the registration certificate. (See Exhibit 10 to Report No. 24548037).
 - Based on this information and documentation, the proposed penalty has been reduced by 25% (as indicated below).

Financial Status

Under 49 CFR §107.331 (e) and (f), the proposed penalty may be reduced if Respondent demonstrates that it is unable to pay that penalty, or if payment of the proposed penalty would affect Respondent's ability to continue in business. Respondent's poor financial condition may be a basis for reducing the proposed penalty; a healthy financial condition is *not* a basis for increasing the penalty.

PHMSA has no information that indicates that Respondent is unable to pay the proposed penalty or that payment of the proposed penalty will affect Respondent's ability to continue in business. If Respondent wishes its financial condition to be considered in assessing a penalty for the violation(s) alleged in this Notice, it must provide current financial information (i.e., copies of Respondent's three most current Federal tax returns, an income statement, and a current balance sheet [preferably certified]).

TOTAL CIVIL PENALTY PROPOSED

Probable Violation	Baseline Penalty	Increase for Priors	Corrective Action	Proposed Penalty
1	\$3,000	\$0 [0% increase]	\$750 [25% reduction]	\$2,250
2	\$11,500 [\$7,000+\$4,500]	\$0 [0% increase]	\$2,875 [25% reduction]	\$8,625
3	\$7,500	\$0 [0% increase]	\$1,875 [25% reduction]	\$5,625
4	\$4,000	\$0 [0% increase]	\$1,000 [25% reduction]	\$3,000
5	\$2,400	\$0 [0% increase]	\$600 [25% reduction]	\$1,800
TOTAL	\$28,400	\$0	(\$7,100)	\$21,300

ADDENDUM B

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**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

How do I respond to this Notice of Probable Violation (Notice)?

You may respond to this Notice in any of three ways:

- (1) Pay the proposed assessment (49 C.F.R. § 107.315);
- (2) Send an informal response, which can include a request for an informal conference (§ 107.317); or
- (3) Request a formal hearing (§107.319)

How do I pay the proposed assessment?

You pay the proposed assessment by:

- (1) Sending a wire transfer, through the Federal Reserve Communications System (Fedwire), to the U.S. Treasury account (49 C.F.R. § 89.21(b)(3)). Addendum C contains the instructions for sending wire transfers. Questions concerning wire transfers should be directed to: DOT/PHMSA/MMAC, AMK-325/HQ-RM 181 6500 S MacArthur Blvd., Oklahoma City, OK 73169 (Telephone No. (405) 954-9309).

Or

- (2) Sending a certified check or money order if the penalty amount is \$10,000 or less. The certified check or money order must be payable to the "U.S. Department of Transportation" and must be mailed to: DOT/PHMSA/MMAC, AMK-325/HQ-RM 181 6500 S MacArthur Blvd., Oklahoma City, OK 73169 (Telephone No. (405) 954-9309).

Or

- (3) Using a credit card via the Internet. To pay electronically with a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/public/form/start/1078346>

Where do I send my response?

You must address your informal response or formal hearing request to the attorney who issued the Notice at the following address:

Pipeline and Hazardous Materials Safety Administration
Office of the Chief Counsel (PHC-10)
Room E26-105
U.S. Department of Transportation
1200 New Jersey Avenue S.E.
Washington, D.C. 20590

When is my response due? (§ 107.313)

You must respond to the Notice within thirty (30) days of the date you receive it. The attorney who issued the Notice may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period.

What happens if I do not respond? (§ 107.313)

If you fail to respond to the Notice within thirty (30) days of receiving it (or by the end of any extension), you will waive your right to contest the allegations made in Addendum A to the Notice. In addition, the Chief Counsel will issue a default Order finding the facts as alleged in the Notice and assessing the civil penalty as outlined within that notice.

May I propose a compromise offer? (§ 107.327)

Yes. At any time before an order is issued and referred to the Attorney General for collection, you may propose to compromise a civil penalty case by submitting a specific compromise offer amount to the attorney handling the case (§ 107.327). The Chief Counsel may also propose a compromise.

If a compromise is agreeable to all parties, the attorney handling the case will forward a compromise agreement to you for signature. This document will outline the terms of the joint agreement and you must return a signed original to the attorney handling the case within 30 days. After this agreement has been returned it will be signed by the assigned attorney and presented to the Chief Counsel with a request that the Chief Counsel adopt the terms of that agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of the agreement constitute an offer of compromise until accepted by the Chief Counsel. When you agree to a compromise, you give up your right to appeal the order issued by the Chief Counsel.

What should I include in my informal response? (§107.317)

Your informal response must contain written explanations, information or arguments that respond to the allegation(s), the amount of the proposed civil penalty, or the terms of a proposed compliance order. Provide complete documentation of your explanations and arguments. No specific format is required for an informal response.

May I request an informal conference? (§ 107.317)

Yes. You may request an informal conference as part of your informal response. Please describe the issues you want to discuss during the conference. After receiving your request, the attorney handling the case will contact you to arrange the conference. Normally the conference will be held by telephone, and the attorney handling the case and the inspector who conducted the compliance inspection will participate in the conference.

What happens after I submit an informal response to the Notice?

We will hold an informal conference if you have asked for one. Based on the Notice, the evidence supporting the Notice, any written explanations, information and documentation that you provide, and matters presented at a conference, the Chief Counsel decides the case. The Chief Counsel may issue an order finding all or some of the violation(s) alleged in the Notice or may withdraw all or some of the alleged violation(s). If the Chief Counsel finds violation(s), the order will assess a civil penalty.

How do I appeal an order? (§ 107.325)

You may appeal an order to PHMSA's Administrator.

How do I request a formal hearing? (§ 107.319)

You must request a formal hearing within 30 days of the date that you receive the Notice. If you are granted an extension of time to respond to the Notice, you must submit a formal hearing request by the end of the extended time period. If you do not request a formal hearing within the specified time, you will waive your right to a formal hearing.

Your request for a formal administrative hearing must include the following:

- (1) The name and address of the respondent and any other person submitting the request;
- (2) A statement of which allegations of violations are not in dispute; and
- (3) A description of the issues that you will raise at the hearing. (The Administrative Law Judge will decide whether issues not raised in the request may be raised at the hearing.)

Addendum B

After receiving a request for a hearing that complies with these requirements, the Chief Counsel will request an Administrative Law Judge from the DOT Office of Hearings to preside over the hearing. Once an Administrative Law Judge is assigned, all further matters in the proceeding will be conducted by the Administrative Law Judge. Either you or PHMSA may appeal the decision of the Administrative Law Judge to PHMSA's Administrator.

How does PHMSA determine if I have committed a violation?

This is a civil penalty case and PHMSA uses the "knowingly" standard, which is defined in the Federal hazardous materials transportation law (See 49 U.S.C. 5123(a)(1)), in all civil penalty cases. The standard for a violation is similar to "negligence". After considering all the available information (including the additional information you provide in your response to the Notice), PHMSA must find either that (1) you had actual knowledge of the facts giving rise to the violation, or (2) you had imputed knowledge, of the facts giving rise to the violation, in that a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge. PHMSA does not need to find that you actually knew about, or intended to violate, requirements in the Federal hazardous material transportation law or the HMR.

What factors does PHMSA consider when proposing and assessing a civil penalty? (§ 107.331)

PHMSA considers the following factors when proposing and assessing a civil penalty for a violation of the regulations:

- (1) The nature and circumstances of the violation(s);
- (2) The extent and gravity of the violation(s);
- (3) The degree of your culpability;
- (4) Your history, if any, of prior offenses;
- (5) Your ability to pay the penalty;
- (6) The effect of the penalty on your ability to continue in business;
- (7) The size of your business, and
- (8) Other matters as justice may require.

The nature and the timeliness of any corrective action you take to prevent future violations of a similar nature will be considered under item No. 8. However, you must submit documented evidence of that corrective action to the PHMSA attorney. If you have submitted documented evidence regarding any of these factors during PHMSA's investigation of the alleged violation(s), and that documentation is referenced in the Notice or accompanying Inspection/Investigation Report, you do not need to resubmit it.

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), PHMSA must consider the rights of small entities in enforcement actions. PHMSA's hazardous materials enforcement program has been designed to consider small businesses and the penalties that PHMSA proposes and assesses are generally considered appropriate for small businesses. PHMSA takes into consideration the size of the company when proposing and assessing a civil penalty.

However, special consideration may not be given to a small business if:

- (1) The small business has not corrected its violation(s) within a reasonable time;
- (2) The small business has committed one or more prior violations of the HMR;
- (3) The violations involve willful conduct;
- (4) The violations pose serious threats to health, safety or the environment; or
- (5) The small business has not made a good faith effort to comply with the law.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. Our objective is to ensure a fair regulatory enforcement environment.

You have a right to contact the Small Business Administration's national Ombudsman at 1-888- REG-FAIR (1-888-734-3247) or <https://www.sba.gov/ombudsman> regarding the fairness of the compliance and enforcement activities by this agency.

The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

Where can I find more information on how PHMSA handles hazardous materials enforcement cases?

A more detailed discussion of these procedures is in 49 C.F.R. §§ 107.301 through 107.333. These procedures are also on the Office of the Chief Counsel's home page at <http://www.phmsa.dot.gov/org/office-of-chief-counsel>.

ADDENDUM C

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**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or sending bank)
9. <u>BENEFICIAL (BNF)- AGENCY LOCATION CODE</u> BNF=/AC-69140001	10. <u>REASONS FOR PAYMENT</u> <i>Example: PHMSA Payment for Case #/Ticket</i>

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE:**
\$10,000.00

Block #7 - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, which must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69140001"
Ensure the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #10 - REASON FOR PAYMENT – "AC-Payment for PHMSA Case#" To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number."

Note: - A wire transfer must comply with the format and instructions, or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-9309.