

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 15, 2011

Mr. Steve Jacobs
President
Harvest Pipeline Company
1201 Louisiana, Suite 1400
Houston, Texas 77002

CPF 4-2011-5004

Dear Mr. Jacobs:

During the months August thru October 2010, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Southwest Pass 24 Oil Terminal facility located in Venice, LA. Records were inspected in Houston, TX. As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §195.428 Overpressure safety devices and overfill protection systems.

- (a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.**

Harvest failed to inspect and test three pressure limiting devices each calendar year, specifically 2009. During the inspection, Harvest provided PHMSA records of the tests that were

performed. These records were reviewed during the inspections and there was no documentation provided at the time to demonstrate that three overpressure protection devices on SW Pass 24 Terminal were performed for calendar year 2009. The available documentation indicated that these devices were inspected on September 23, 2008. All Overpressure Protection devices were inspected for calendar year 2010.

The following Overpressure Protection devices were missed in 2009:

Location	ID#	Type	Manufacture
EPL Delivery line	PR103	Pressure Relief	Grove 83
Prover	TR106/SWP-2	Thermal Relief	Anderson Greenwood 8364
Station Suction	TR108/SWP-1	Thermal Relief	Anderson Greenwood G1PMCY6-4

The evidence demonstrates that the operator violated § 195.428(a) by failing to inspect and test these overpressure protection devices at the required interval. In the event that such inspections were, in fact, performed, the evidence demonstrates the operator violated §195.404(c)(3) by failing to maintain a record of each inspection and test required by this subpart for at least 2 years or until the next inspection or test is performed, whichever is longer.

2. §195.436 Security of facilities.

Each operator shall provide protection for each pumping station and breakout tank area and other exposed facility (such as scraper traps) from vandalism and unauthorized entry.

During the field inspection, the PHMSA inspector found that Harvest did not provide protection at the SW Pass 24 Oil Terminal Facility in order to prevent vandalism and unauthorized entry as required by §195.436. Additionally, Harvest's "Breakout Tank In-service Visual Inspection Report" which provides monthly inspection information (provided by the operator at the time of the inspection) indicates that the facility is not secure.

3. §195.505 Qualification program.

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

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

While reviewing inspection records, PHMSA inspectors found that individuals had performed covered tasks prior to being qualified. Harvest provided forms entitled "Operator Qualification Solutions Group" for several individuals as qualification records. These records indicate the earliest time an individual is qualified to perform a covered task. PHMSA reviewed these forms during the inspection and found that an individual (GDB) performed covered task "CT03 Inspect Cathodic Protection Rectifiers" twice on March 27, 2009 and twice on July 31, 2009. However, the individual was not initially qualified to perform this covered task until October 11, 2009. Another individual (GRJ) performed covered task "CT03" twice on May 8, 2009 and was not qualified until June 28, 2009. Neither individual was observed by a qualified individual while performing these tasks.

In addition, an individual (LRG) performed covered task “CT24 Inspect, Test and Calibrate Relief Valves” on August 6, 2010 on three relief valves. However, this individual was not initially qualified to perform this covered task until October 12, 2010. He was not observed by a qualified individual.

4. §195.573 What must I do to monitor external corrosion control?

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with Sec. 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

Harvest failed to conduct tests of the cathodic protection system for the terminal piping and breakout tanks #103 & 104 for each calendar year, specifically 2009. During the inspection, Harvest provided PHMSA records of the tests that were performed. These records were reviewed during the inspections and there was no documentation provided at the time to demonstrate that the cathodic protection system for the terminal piping and breakout tanks #103 & 104 were performed for calendar year 2009. The available documentation indicated that these test were performed on August 21, 2008 and again on April 16, 2010.

The evidence demonstrates that the operator violated § 195.573 by failing to test the cathodic protection system at the required interval. In the event that such inspections were, in fact, performed, the evidence demonstrates the operator violated §195.589(c) by failing to maintain a record of each test required by this subpart as long as the pipeline remains in service.

5. §195.579 What must I do to mitigate internal corrosion?

(a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

Harvest failed to investigate the corrosive effect of the product transported by its pipeline to determine if it would corrode the pipeline. Harvest utilizes the procedure entitled “Hilcorp Energy Company Pipeline Assets Corrosion Control Program” (Corrosion Procedure) last revised 11-19-2007 as their corrosion control program procedures and to comply with 195.579. During the procedures review, PHMSA inspectors found that Harvest did not follow “Section C Internal Corrosion” of the Corrosion Procedure or take any other action to investigate the corrosive effect of the product. Paragraph 1.a. of the procedure states:

“Corrosive gas or liquids will not be transported by pipeline unless the corrosive effect of the liquid on the pipeline has been investigated and steps have been taken to minimize internal corrosion (inhibitor and /or monitoring equipment). An analysis of fluids and gases will be conducted to identify corrosive materials”.

During the inspection, PHMSA inspectors asked Harvest to demonstrate that they had investigated the corrosive effect of the hazardous liquid. Harvest did not provide any

explanation nor documentation that showed they had performed the required investigation. In addition, at the time of the inspection, Harvest was not using inhibitors to mitigate internal corrosion and did not have a coupon corrosion monitoring program to determine corrosive effects

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$72,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 1	\$14,100
Item 3	\$42,500
Item 4	\$15,800

Proposed Compliance Order

With respect to items 2 and 5 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Harvest Pipeline Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 4-2011-5004** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Harvest Pipeline Company (Harvest) a Compliance Order incorporating the following remedial requirement to ensure the compliance of Harvest Pipeline Company with the pipeline safety regulations:

1. In regards to Item Number 2 of the Notice pertaining to failure to provide protection for breakout tank area; from vandalism and unauthorized entry, Harvest Pipeline Company must provide security from vandalism and entry by unauthorized persons. Harvest must provide this office its plans, procedures and records that demonstrate that a process has been implemented or that barriers have been installed that demonstrate compliance with 49 CFR §195.436.
2. In regards to Item Number 5 of the Notice pertaining to the failure to investigate the corrosive effect of the hazardous liquid on the pipeline, Harvest must investigate the corrosive effect of hazardous liquids on its pipelines, including on "dead legs," low-flow lines, and infrequently used pump station lines. Harvest must review all relevant procedures and amend them as necessary. Harvest must survey all applicable segments of its pipeline facility and ensure that they are protected from corrosion and are subject to internal corrosion inspection, testing, and monitoring that meet applicable requirements. Based on this review and survey, Respondent must develop a plan for conducting internal corrosion surveys in a manner consistent with § 195.579(a).
3. Aforementioned to be accomplished within 30 days following receipt of the Final Order.
4. It is requested (not mandated) that Harvest maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.