

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 26, 2009

Mr. Jordan Janak
Director, Environmental & Regulatory Compliance
Plains Products Terminals LLC
c/o Plains Pipeline LLC
P.O. Box 4648
Houston, TX 77210-4648

CPF 5-2009-0018

Dear Mr. Janak:

On November 4, 2008, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Martinez Terminal Gas Line in Martinez, California.

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 violations are:

1. §192.603 General Provisions.

(b) Each operator shall keep records necessary to administer the procedures established under §192.605.

Operator staff could not provide implementation records to demonstrate they were properly administering the procedures. Specifically, records documenting the following activities were all unavailable at the time of the inspection: the procedural manual review required under §192.605(a), review of personnel work under §192.605(b)(8) and §192.605(c)(4), a location specific emergency plan required by §192.615(b)(2), emergency procedure training required by §192.615(b)(3), liaison with public officials required by §192.615(c), public awareness program activities required by §192.616 (e, f, and g), pipeline patrolling required by §192.705, leak surveys for years other than 2007 as required by §192.706, inspection and testing of pressure limiting and regulating stations required by §192.739 (under PG&E supply contract), and determination of adequate overpressure protection as required by §192.743.

2. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General* Each operator shall prepare and follow for each pipeline, a manual for conducting operations and maintenance. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

At the time of the inspection, the operator did not have specific written procedures for the natural gas pipeline. Some applicable procedures were available in its Part 195 hazardous liquid pipeline manual that is used for their intrastate pipelines inspected by the California State Fire Marshal, but a comprehensive procedural manual for operation, maintenance and emergencies was not available for our inspector's review. Based upon our conversations with your field staff, the operator apparently made a decision to consider the natural gas pipeline to be non-regulated under Part 192. It does appear some operations and maintenance activities, such as corrosion control monitoring for the pipeline, were performed along with analogous Part 195 work. This resulted in only partial compliance with the Federal safety regulations.

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 violations and has recommended that you be preliminarily assessed a civil penalty of \$108,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$44,400
2	\$64,400

Proposed Compliance Order

With respect to items 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Plains Products Terminals. 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 5-2009-0018** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Christopher Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 J. Stahoviak (#120716)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to failure to keep records of required operations and maintenance activities as listed, the operator must perform and document all such required activities.
2. In regard to Item Number 2 of the Notice pertaining to lack of a procedural manual for operations, maintenance, and emergency response, the operator must either develop a free-standing manual for its natural gas pipeline, or adapt its existing hazardous liquid procedural manual to include the required procedures that must be adhered to for the natural gas pipeline.
3. The operator must develop and perform all required procedures within 90 days.
4. Plains Products Terminals shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.