



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 1, 2008

Mr. Eric Amundsen
Vice President Technical Services
Panhandle Eastern Pipeline Co.
5444 Westheimer Road
Houston, TX 77056

CPF 3-2008-1002

Dear Mr. Amundsen:

On April 29, 2007, the Pipeline and Hazardous Materials Safety Administration (PHMSA) investigated an incident involving Panhandle Eastern Pipeline Company's 200 Line. The incident occurred about three miles east of the Glenarm Compressor Station near the town of Pawnee in Sangamon County Illinois. The incident resulted in the release of natural gas which ignited into a fire. As a result, several farm animals were killed and one residence was evacuated.

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 item inspected and the probable violation is:

1. §192.479 Atmospheric corrosion control, General.

- (a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.**
- (b) Coating material must be suitable for the prevention of atmospheric corrosion.**

Panhandle did not maintain pipe coating sufficient to prevent corrosion on the portion of its pipeline exposed to the atmosphere where the failure occurred. Panhandle's atmospheric inspection records revealed that Panhandle personnel became aware of the poor condition of the coating in 2003, but no action was taken by Panhandle to remediate the section. In 2005, the coating at this location was again noted on Panhandle's inspection records as being in poor condition and needing remediation and again no action was taken. The failure to address the poor coating at this location was a major factor in the eventual failure of the pipeline.

Additionally, Panhandle's written operating procedure 2-5020 requires the repair and removal of the poor coating once it is noted that remediation is needed. Therefore, Panhandle failed to follow its own procedures for taking action to remediate pipe coating when the need has been identified.

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 \$180,000 for Item 1.

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 3-2008-1002** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosure *Response Options for Pipeline Operators in Compliance Proceedings*

Response Options for Pipeline Operators in Compliance Proceedings

The requirements of 49 C F R Part 190 Subpart B (§§ 190 201–190 237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA)

Be advised that all material submitted by a respondent in response to an 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)

1 Procedures for Responding to a NOTICE OF PROBABLE VIOLATION

Within 30 days of receipt of a Notice of Probable Violation the respondent shall respond to the Regional Director who issued the Notice in the following way

a When the Notice contains a proposed CIVIL PENALTY* --

- 1 If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to make findings and to close the case with prejudice to the respondent. Payment terms are outlined below.
- 2 If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice.
- 3 If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty. Refer to 49 C F R § 190 225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based, or
- 4 Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b When the Notice contains a proposed COMPLIANCE ORDER* --

- 1 If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order.

- 2 If you are not contesting the compliance order but wish to submit written explanations information or other materials you believe warrant modification of the proposed compliance order in whole or in part or you seek clarification of the terms of the proposed compliance order you may submit such materials This authorizes PHMSA to make findings and issue a compliance order
- 3 If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part, or
- 4 Request a hearing as described below to contest the allegations and/or proposed compliance order items

c When the Notice contains a **WARNING ITEM** --

No written response is required The respondent is warned that if it does not take appropriate action to correct these items enforcement action will be taken if a subsequent inspection reveals a violation

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order

II **Procedures for Responding to a NOTICE OF AMENDMENT*--**

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way

- a If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice
- b If you are not contesting the Notice but wish to submit written explanations information or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the Notice of Amendment, you may submit such materials This authorizes PHMSA to make findings and issue an Order Directing Amendment
- c If you are contesting the Notice of Amendment but are not requesting an oral hearing submit written explanations information or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part, or

d Request a hearing as described below to contest the allegations in the Notice

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order

III **Procedure for Requesting a Hearing**

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential, or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you

wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faqs.html

VII **Payment Instructions**

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AM7-341) P O Box 25082
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA 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> IREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example PHMSA - CPT # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You as sender of the wire transfer, must provide the sending bank with the information for blocks (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 9-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 - "IREAS NYC" Ensure the sending bank enters this abbreviation It must be used for all wire transfers to the Treasury Department

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001" Ensure the sending bank enters this information This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration Department of Transportation

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

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 the Financial Operations Division (405) 954-8893 at the time you send the wire transfer

May 2008