

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 23, 2010

Mr. Tom Saunders
Executive Vice President
Quest Pipelines
210 Park Avenue
Suite #2750
Oklahoma City, OK 73102

CPF 3-2010-1003M

Dear Mr. Saunders:

On December 12-14, 2009 and January 25-26, 2010, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Quest Pipeline (Quest) procedures for operations and maintenance and operator qualification in Olathe, Kansas.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within Quest's plans or procedures, as described below:

1. §192.13 What general requirements apply to pipelines regulated under this part?

(c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

§192.225 Welding Procedures

(a) Welding must be performed by a qualified welder in accordance with welding procedures qualified under section 5 of API 1104 (incorporated by reference, see §192.7) or section IX of the ASME Boiler and Pressure Vessel Code "Welding and Brazing Qualifications" (incorporated by reference, see §192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures shall be determined by destructive testing in accordance with the applicable welding standard(s).

Quest did not reference the correct section of API 1104 when addressing that welding procedures must be qualified under Section 5 of API 1104.

2. §192.13(c) (See Above)

§192.229 Limitations on welders.

(c) A welder qualified under §192.227(a) --

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under the sections 6 or 9 of API Standard 1104 (incorporated by reference, see §192.7). Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7½ months. A welder qualified under an earlier edition of a standard listed in §192.7 of this part may weld but may not requalify under that earlier edition;

Quest did not reference the correct section of API 1104 when addressing that a welder qualified under §192.227(a) may only weld on pipe at pressure that produces a hoop stress of 20 percent or more SMYS within the preceding 6 calendar months if he has one weld tested and found acceptable under sections 6 or 9 of API 1104. Quest must reference Section 6 or 9 of 1104 when addressing the limitations on welders.

3. §192.13(c) (See Above)

§192.241 Inspection and test of welds.

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 9 of API Standard 1104 (incorporated by reference, see §192.7). However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if Appendix A to API 1104 applies to the weld, the acceptability of the weld may be further determined under that appendix.

Quest did not reference section 9 of API 1104 when addressing the inspection and testing of welds per API 1104. Quest only reference API 1104. Quest must reference Section 9 of 1104 when addressing the inspection and test of welds nondestructively.

4. §192.13(c) (See Above)

§192.243 Nondestructive testing.

(a) Nondestructive testing of welds must be performed by any process, other than trepanning, that will clearly indicate defects that may affect the integrity of the weld.

(b) Nondestructive testing of welds must be performed:

(1) In accordance with written procedures; and

(2) By persons who have been trained and qualified in the established procedures and with the equipment employed in testing.

(c) Procedures must be established for the proper interpretation of each

nondestructive test of a weld to ensure the acceptability of the weld under §192.241(c).

Quest did not address the use of the ultrasonic testing (UT) procedure for nondestructive testing of welds nor the specific requirements associated with the procedure, including the proper interpretation of each UT test of a weld. Quest must provide a procedure that addresses the use of UT for testing of welds and the specific requirements associated with the procedure, including the proper interpretation of each UT test of a weld.

5. §192.13(c) (See Above)

§192.243 Nondestructive testing.

(e) Except for a welder whose work is isolated from the principal welding activity, a sample of each welder's work for each day must be nondestructively tested, when nondestructive testing is required under §192.241(b).

Quest did not correctly address the requirement to nondestructively test samples of each welder's work for each day. Quest must address that a sample of each welders work each day shall be nondestructively tested.

6. §192.13(c) (See Above)

§192.245 Repair or removal of defects.

(a) Each weld that is unacceptable under §192.241(c) must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipeline vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.

Quest did not correctly address the repair procedure of a previously repaired weld. Quest has conflicting procedures concerning repairs. One procedure states "*After repair, the welded area must be inspected to ensure its acceptability. If the initial repair attempt is not acceptable, the weld must be removed (cut out).*" The procedure states "*Cracks, repairs, or defect repairs in previously repaired areas, must be done in accordance with the qualified written procedures outlined in the Quest Welding Manual*". Quest shall develop one procedure addressing repair and a previously repaired weld that does not conflict with another procedure.

7. §192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. 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 one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) Maintenance and normal operations. The manual required by paragraph (a)

of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

- (8) Periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedure when deficiencies are found.**

Quest did not address periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures. Quest had addressed review of the procedures only. Quest must address periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures.

8. §192.605(a) (See Above)

§192.629 Purging of pipelines.

- (a) When a pipeline is being purged of air by use of gas, the gas must be released into one end of the line in a moderately rapid and continuous flow. If gas cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the gas.**
- (b) When a pipeline is being purged of gas by use of air, the air must be released into one end of the line in a moderately rapid and continuous flow. If air cannot be supplied in sufficient quantity to prevent the formation of a hazardous mixture of gas and air, a slug of inert gas must be released into the line before the air.**

Quest combined the purging of air and gas procedures into one procedure that creates confusion of which medium should be used at a particular time. The procedure did not clearly address the purging of pipelines, whether with gas or air. Quest must develop one procedure that addresses the purging of air and one procedure that addresses the purging of gas, and ensure that the two procedures do not conflict with each other.

9. §192.605(a) (See Above)

§192.703 General.

- (b) Each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service.**

Quest did not adequately address the use of temporary and permanent repairs and the differences in the two types of repair as it relates to their pipeline system. Quest must develop one or more procedures that address the use of temporary and permanent repairs as it relates to their pipeline system.

10. §192.605 Procedural manual for operations, maintenance, and emergencies.

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

- (1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and Subpart M of this part.**
- (2) Controlling corrosion in accordance with the operations and maintenance**

requirements of Subpart I of this part.

§192.463 External corrosion control: Cathodic protection.

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in Appendix D of this part. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria.

(b) If amphoteric metals are included in a buried or submerged pipeline containing a metal of different anodic potential-

(1) The amphoteric metals must be electrically isolated from the remainder of the pipeline and cathodically protected; or

(2) The entire buried or submerged pipeline must be cathodically protected at a cathodic potential that meets the requirements of Appendix D of this part for amphoteric metals.

Appendix D to Part 192-Criteria for Cathodic Protection and Determination of Measurements

II. Interpretation of voltage measurement.

Voltage (IR) drops other than those across the structure-electrolyte boundary must be considered for valid interpretation of the voltage measurement...

Quest did not adequately address the use of IR drop in determining the cathodic protection of their pipelines. Although the procedure mentions IR drop, the procedure is not clear about its use in determining adequate cathodic protection on their pipelines. Quest must amend its procedure to address what IR drop is and how Quest considers IR drop in determining adequate cathodic protection on their pipelines.

11. §192.605(b) (See Above)

§192.465 External corrosion control: Monitoring.

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

Quest did not adequately address the timeliness of a prompt remedial action to correct deficiencies indicated by monitoring. Quest must amend its procedure to address the timeliness of prompt remedial action to correct deficiencies indicated by monitoring.

12. §192.605(b) (See Above)

§192.475 Internal corrosion control: General.

(a) Corrosive gas may not be transported by pipeline, unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion.

Quest did not have adequate procedures to address the transportation of corrosive gas. Quest did not have a procedure stating the use of gas sampling to monitor and minimize internal corrosion. Quest must amend its procedure to address the use of gas sampling to monitor and minimize internal corrosion.

13. §192.605(b) (See Above)

§192.477 Internal corrosion control: Monitoring.

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with interval not exceeding 7 1/2 months.

Quest did not establish criteria to initiate remedial action after determining the corrosiveness of the gas taken by gas sampling. Quest did not address locations on the pipeline to be utilized for gas sampling. Quest must amend its procedures to state the criteria that Quest has set to initiate remedial action after determining the corrosiveness of the gas sampled.

14. §192.605(b) (See Above)

§192.479 Atmospheric corrosion control; General.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

Quest did not address the suitability of coating to prevent atmospheric corrosion. Although Quest had procedures for coating, they did not refer to the suitability of the coating. Quest must amend its procedure to refer to the suitability of the coating.

15. §192.605(b) (See Above)

§192.491 Corrosion control records.

(a) Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

Quest did not adequately address the requirement to maintain the corrosion control maps showing the location of cathodically protected piping, cathodic protection facilities, and neighboring structures bonded to the cathodic protection system. Although Quest had procedures addressing corrosion control requirements in general, there was no specific language addressing what portion of corrosion control and cathodic protection must be maintained. Quest must amend its procedure to address the portions of corrosion control and cathodic protection it will maintain as records.

16. §192.605(b) (See Above)

§192.713 Transmission lines: Permanent field repair of imperfections and damages.

- (a) Each imperfection or damage that impairs the serviceability of pipe in a steel transmission line operating at or above 40 percent of SMYS must be-**
- (2) Repaired by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.**

Quest did not adequately address the use of reliable engineering tests and analyses for permanently field repairing imperfection and damages to pipelines operating at or above 40 percent SMYS. Quest must address the applicable reliable engineering test and analyses used for permanently field repairing imperfection and damages to pipelines operating at or above 40 percent SMYS.

17. §192.605(b) (See Above)

§192.713 Transmission lines: Permanent field repair of imperfections and damages.

- (b) Operating pressure must be at a safe level during repair operations.**

Quest did not address the requirement that the operating pressure must be at a safe level during repair operations in their permanent field repair of imperfections and damages procedures. Quest must address in procedure that the operating pressure must be at a safe level during repair operations in their permanent field repair of imperfections and damages procedures.

18. §192.605(b) (See Above)

§192.715 Transmission lines: Permanent field repair of welds.

Each weld that is unacceptable under §192.241(c) must be repaired as follows:

- (b) A weld may be repaired in accordance with §192.245 while the segment of transmission line is in service if:**
 - (1) The weld is not leaking;**
 - (2) The pressure in the segment is reduced so that it does not produce a stress that is more than 20 percent of the SMYS of the pipe; and**
 - (3) Grinding of the defective area can be limited so that at least 1/8-inch (3.2 millimeters) thickness in the pipe weld remains.**

Quest did not address the requirements if repairing a weld if the line is in service. The procedure did not address that the weld must not be leaking, the pressure in the segment has been reduced so that it does not produce more than 20 percent of the SMYS of the pipe, and grinding of the defective area can be limited so at least 1/8-inch thickness in the pipe weld remains. Quest must amend the procedure to address that the weld must not be leaking, the pressure in the segment must be reduced so that it does not produce more than 20 percent of the SMYS of the pipe, and grinding of the defective area must be limited so at least 1/8-inch thickness in the pipe weld remains.

19. §192.605(b) (See Above)

§192.717 Transmission lines: Permanent field repair of leaks.

(b) Repairing the leak by one of the following methods:

(5) Apply a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

Quest did not adequately address the use of reliable engineering tests and analyses to show the repair method can permanently restore the serviceability of the pipe. Quest must address the applicable reliable engineering test and analyses used for permanently field repairing leaks that can show permanently restoring the serviceability of the pipe.

20. §192.605(b) (See Above)

§192.751 Prevention of accidental ignition.

Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following:

(c) Post warning signs, where appropriate.

Quest did not require the posting of warnings signs, stating the signs “should be placed” rather than “shall be placed”. Also, the procedure did not address the appropriate locations for placement of the signs.

21. §192.615 Emergency plans.

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following:

(4) The availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.

Quest did not address the availability of personnel, equipment, tools and materials that were available if needed at the scene of an emergency. Quest must amend their procedure to address the availability of personnel, equipment, tools and materials that were available if needed at the scene of an emergency.

22. §192.615(a) (See Above)

(6) Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.

Quest did not adequately address the communication necessary between a first responder and Gas Control to ensure an emergency shutdown and pressure reduction to minimize hazards to life or property had been performed. Quest must amend their procedure to address the communication necessary between a first responder and Gas Control to ensure

an emergency shutdown and pressure reduction to minimize hazards to life or property had been performed.

23. §192.615(a) (See Above)

(7) Making safe any actual or potential hazard to life or property.

Quest procedures did not address making safe any actual or potential hazard to life or property. Although procedures addressed safety in general, specific language addressing safety and potential hazards to life or property was not stated. Quest must address making safe any actual or potential hazard to life or property in their emergency procedures.

24. §192.615 Emergency plans.

(b) Each operator shall:

(1) Furnish its supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures established under paragraph (a) of this section as necessary for compliance with those procedures.

Quest did not address providing supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures. Although each supervisor did have an emergency manual, there was no procedure addressing that each supervisor gets the applicable portions of the latest edition of the emergency procedures. Quest must amend their procedures to ensure that supervisors who are responsible for emergency action a copy of that portion of the latest edition of the emergency procedures.

25. §192.617 Investigation of failures.

Each operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

Quest did not address the use of metallurgical laboratories, where appropriate, for examination of failed facility or equipment or the use of a chain of custody form for each specimen taken from the operator. Quest must amend their procedure to address the use of metallurgical laboratories, where appropriate, for examination of failed facility or equipment or the use of a chain of custody form for each specimen taken from the operator.

26. §195.505 Qualification Program

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

(a) Identify covered tasks;

§192.801 Scope.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

- (1) Is performed on a pipeline facility;**
- (2) Is an operations or maintenance task;**
- (3) Is performed as a requirement of this part; and**
- (4) Affects the operation or integrity of the pipeline.**

Quest's OQ Plan did not identify "nondestructive testing" (NDT) related to maintenance activities as a covered task. Although individuals performing the NDT were qualified, the written plan did not identify NDT as a covered task. Quest must amend their OQ Plan to identify "nondestructive testing" (NDT) related to maintenance activities as a covered task.

27. §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;**

§192.803 Definitions.

Evaluation means a process, established and documented by the operator, to determine an individual's ability to perform a covered task by any of the following:

- (a) Written examination;**
- (b) Oral examination;**
- (c) Work performance history review;**
- (d) Observation during:**
 - (1) Performance on the job,**
 - (2) On the job training, or**
 - (3) Simulations; or**
- (e) Other forms of assessment.**

Quest did not have procedures stating what methods of evaluation would be used to evaluate their company employees. Although all employees had been evaluated and were qualified (verified by review of documentation), the written program did not state the type of evaluation methods that Quest utilizes for the covered tasks. Quest must amend their procedure to address the methods of evaluation that will be used to evaluate company employees.

28. §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;

§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.**

Quest did not have procedures establish to address the use of other entities that perform covered tasks on their facilities. Quest stated that one individual performs one covered task on their pipeline facility who is not a company or contract employee. Quest must develop procedures to address the use of other entities who perform covered tasks on their facilities or ensure that other entities do not perform covered tasks on Quest facilities.

29. §195.505 Qualification Program

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed.

Quest did not establish the criteria to determine evaluation intervals related to the DIF analysis (difficulty, importance, frequency) that was listed in the written program. Quest had evaluation intervals assigned to each covered task, but those intervals did not necessarily correspond to the DIF analysis findings. Quest must establish criteria to ensure the evaluation intervals correspond to the criteria related to the DIF analysis.

30. §192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

- (1) Identification of qualified individual(s);**
- (2) Identification of the covered tasks the individual is qualified to perform;**
- (3) Date(s) of current qualification; and**
- (4) Qualification method(s).**

Quest did not have a specific procedure to address how their company evaluations for individuals were to be documented. An inconsistency of evaluation requirements for covered tasks was witnessed between company and contractor evaluation records. Quest must develop a specific procedure to address how evaluations for their company individuals are to be documented.

31. §192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

- (1) Identification of qualified individual(s);**
- (2) Identification of the covered tasks the individual is qualified to perform;**
- (3) Date(s) of current qualification; and**
- (4) Qualification method(s).**

Quest did not have adequate procedures to address the completion of evaluation forms. Specifically, there were certain covered tasks that did not require each step of the evaluation check sheet to be completed, providing an inconsistent completion pattern. Quest must amend procedures to ensure the correct completion of evaluation forms.

Response to this Notice

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.

If, after opportunity for a hearing, your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

In correspondence concerning this matter, please refer to **CPF 3-2010-1003M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
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).

I. 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 issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will 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. 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;
 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; 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_faq.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 (AMZ-341) P.O. Box 269039
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> TREAS 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 - CPF # / 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 - "TREAS 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 # / 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.

February 2009