

## NOTICE OF AMENDMENT

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 5, 2017

Mr. Dean Gore  
Vice President Environmental and Regulatory Compliance  
PAA Natural Gas Storage, LLC  
333 Clay Street  
Suite 1600  
Houston, TX, 77002

**CPF 3-2017-1005M**

Dear Mr. Gore:

On September 19-23 and October 18, 2016, representatives of the Michigan Public Service Commission (MIPSC), acting as an interstate agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected PAA Natural Gas Storage, LLC's procedures for Operation and Maintenance and Integrity Management at the Bluewater Columbus Compressor Station in Columbus, Michigan.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within PAA Natural Gas Storage, LLC (PAA) plans or procedures, as described below:

**1. §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.**

## **§192.616 Public Awareness**

- (c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

PAA's procedures did not include all the baseline and supplemental requirements of API RP 1162. Specifically, PAA's procedures did not include the requirement to deliver site specific information to residents near storage facilities.

## **2. §192.605(b)(1) – See above**

### **§192.711 Transmission lines: General requirements for repair procedures.**

- (b) Permanent repairs. An operator must make permanent repairs on its pipeline system according to the following:**

- (2) Integrity management repairs: When an operator discovers a condition on a pipeline covered under Subpart O - Gas Transmission Pipeline Integrity Management, the operator must remediate the condition as prescribed by § 192.933(d).**

PAA did not have StrongBack® composite wraps listed in the operations and maintenance (O&M) manual as a company approved repair method. PAA used a StrongBack® composite wrap on October 5, 2010 to make an integrity management repair. PAA's O&M procedure 192.711, Section 4.1.4 stated, "Approved repair methods include: ... An approved pipe wrap system such as PermaWrap™ or Clock Spring®." PAA staff indicated that StrongBack® was specified for the Bluewater ILI (inline inspection) anomaly repair in 2010; however, they were unable to provide documentation that it had been reviewed and approved as the other repair methods listed in the O&M manual.

Additionally, PAA's O&M manual did not include procedures on how to repair dents with metal loss that are immediate repair conditions per §192.933(d)(1)(ii). PAA's O&M 192.711 Section 4.4 only addressed dents with stress concentration, but not dents with metal loss.

## **3. §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.**

**(4) Gathering of data needed for reporting incidents under Part 191 of this chapter in a timely and effective manner.**

PAA's procedures for gathering data for reporting incidents did not include the Part 191 reporting criterion for gas loss (i.e. three million cubic feet or more) in Section 6.05(c) Section 1.9 of the O&M manual. Additionally, Section 4.5 contained Michigan Intrastate reporting thresholds which do not pertain to this facility and the address for MIPSC office was incorrect.

**4. §192.605(b) – See Above**

**(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.**

PAA's procedures for periodically reviewing the work done by operator personnel did not define how often this would be performed, nor did the procedures describe how the periodic review would be documented.

**5. §192.605 Procedural manual for operations, maintenance, and emergencies**

**(c) Abnormal operation. For transmission lines, the manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded:**

**(1) Responding to, investigating, and correcting the cause of:**

- (i) Unintended closure of valves or shutdowns;**
- (ii) Increase or decrease in pressure or flow rate outside normal operating limits;**
- (iii) Loss of communications;**
- (iv) Operation of any safety device; and,**
- (v) Any other foreseeable malfunction of a component, deviation from normal operation, or personnel error which may result in a hazard to persons or property.**

PAA's O&M manual for abnormal operations did not include procedures to respond, investigate and correct the cause of an unintended valve closure, malfunction of pipeline components, and personnel error.

6. §192.605(c) – See above

- (2) Checking variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation.**

PAA's O&M manual for abnormal operations did not include procedures to check variations from normal operation after abnormal operation has ended at sufficient critical locations in the system to determine continued integrity and safe operation. The procedure did not define how PAA would determine the critical locations and when the checks would be done.

7. §192.605(c) – See above

- (4) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.**

PAA's procedures for periodically reviewing the response of operating personnel to determine the effectiveness of the procedures does not refer to the correct form to document this task. PAA's O&M manual, section 605(c) 1.9 refers to the Plains Incident Investigation Form, rather than the Abnormal Operations Report, Form 218.

8. §192.911 What are the elements of an integrity management program?

**An operator's initial integrity management program begins with a framework (see § 192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements. (When indicated, refer to ASME/ANSI B31.8S (incorporated by reference, see § 192.7) for more detailed information on the listed element.)**

- (c) An identification of threats to each covered pipeline segment, which must include data integration and a risk assessment. An operator must use the threat identification and risk assessment to prioritize covered segments for assessment (§ 192.917) and to evaluate the merits of additional preventive and mitigative measures (§ 192.935) for each covered segment.**

**§192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?**

- (b) Data gathering and integration. To identify and evaluate the potential threats to a covered pipeline segment, an operator must gather and integrate existing data**

**and information on the entire pipeline that could be relevant to the covered segment. In performing this data gathering and integration, an operator must follow the requirements in ASME/ANSI B31.8S, section 4. At a minimum, an operator must gather and evaluate the set of data specified in Appendix A to ASME/ANSI B31.8S, and consider both on the covered segment and similar non-covered segments, past incident history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, internal inspection records and all other conditions specific to each pipeline.**

PAA's procedures for integrity management did not include the data elements listed in ASME B31.8S Appendix A.6.2 for equipment threats. Additionally, the procedures did not describe how PAA would document the data gathering and integration.

**9. §192.911 (See Above)**

**(k) A management of change process as outlined in ASME/ANSI B31.8S, section 11.**

PAA's procedures for management of change did not include requirements for documenting minor changes within the integrity management plan. AMSE B31.8S Section 11(a) states that, "*These procedures should be flexible enough to accommodate both major and minor changes, and must be understood by the personnel that use them.*".

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under §190.211. 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 an Order Directing Amendment. If 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. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within [number of days] 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.

It is requested (not mandated) that PAA Natural Gas Storage, LLC maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Allan C. Beshore, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2017-1005M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*

## Response Options for Pipeline Operators in Enforcement Proceedings

The provisions of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.243) govern response options to enforcement actions initiated by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA). You are advised to consult Subpart B for further information regarding your rights and responsibilities in such proceedings.

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 directly to the Regional Director who issued the Notice in the following way:

a. When the Notice contains a PROPOSED CIVIL PENALTY\*-- you have 4 Options

1. You may decide NOT to contest the allegations.

If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty according to the details outlined in Paragraph IX below and advise the Regional Director of the payment in writing. 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 (subject to any outstanding compliance order). Payment terms are outlined below;

2. You may decide to CONTEST the allegations with an EXPLANATION

If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, including the effect of the proposed civil penalty on your ability to continue in business, 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. PHMSA will consider your submission in deciding whether to reduce or eliminate the penalty amount proposed in the Notice. Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$205,638 per violation per day the violation persists up to a maximum of \$2,056,380 for a related series of violations. For violations occurring prior to August 1, 2016, the maximum civil penalty may not exceed \$200,000 per violation per day, with a maximum penalty

not to exceed \$2,000,000 for a related series of violations. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based;

3. You may CONTEST the allegations and elect NOT to have a hearing  
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. You may CONTEST the allegations and ask FOR A HEARING  
Request a hearing as described in Paragraph III below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a **PROPOSED COMPLIANCE ORDER**-- you have 4 Options

1. You may decide NOT to contest the allegations  
If you are not contesting the proposed compliance order and the alleged violations associated with it, notify the Regional Director that you intend to take the actions in the proposed compliance order;
2. You may decide to CONTEST the allegations with an EXPLANATION  
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. You may CONTEST the allegations and elect NOT to have a hearing  
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. You may CONTEST the allegations and ask FOR A HEARING  
Request a hearing as described in Paragraph III 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 and/or submit copies of your amended procedures;
- 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 regulatory requirement or factual basis for the allegations, to the proposed compliance

order, or to the 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 \$25,000, 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. **Case File**

Case file documents are available to the respondent of enforcement proceedings per 49 C.F.R. § 190.209. Documents in the case file are provided upon request, if prepared.

VI. **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 you believe the documents, or portions of a document, qualify for confidential treatment under 5 U.S.C. 552(b). 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.

VII. **The Rights of Small Entities to Enforcement Fairness and Policy Against Retaliation**

The Department of Transportation has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights. Our objective is to ensure a fair regulatory enforcement environment. The US Small Business Administration provides standards for small business classifications for Pipeline Transportation in the North American Industry Classification System Codes (NAICS). If you are a small business and would like PHMSA to consider your classification as such in this enforcement action, please respond accordingly.

Moreover, if you feel you have been treated unfairly or unprofessionally, you may contact the PHMSA Office of Chief Counsel. You also have the right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman) regarding the fairness of the compliance and enforcement activities of this agency.

The Department of Transportation 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.

#### VIII. **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](http://www.sba.gov/ombudsman/dsp_faq.html).

#### IX. **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 (AMK-325) 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) 954-8845, 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) 954-8845, 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) =</u> <u>AGENCY LOCATION CODE</u> 69140001	(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 - "**69140001**". 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) 954-8845 at the time you send the wire transfer.