



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: mpetersen@sinclairoil.com and jbrown@sinclairoil.com

October 13, 2020

Mr. Mark Petersen
President
Sinclair Transportation Company
550 East South Temple
Salt Lake City, Utah 84102
mpetersen@sinclairoil.com

CPF 3-2020-5020

Dear Mr. Petersen:

From April 4, 2019 to September 24, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected records and field facilities of Sinclair Transportation Company's (Sinclair) refined products Midcon system in Kansas, Missouri, and Iowa.

As a result of the inspection, it is alleged that Sinclair has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

- 1. §195.260 Valves: Location. A valve must be installed at each of the following locations:**

(a) . . .

(e) On each side of a water crossing that is more than 100 feet (30 meters) wide from high-water mark to high-water mark unless the Administrator finds in a particular case that valves are not justified.

Sinclair failed to install valves on each side of a water crossing this is more than 100 feet wide from high-water mark to high-water mark. In 2011 Sinclair installed a new crossing of more than 100 feet on Santa Fe Lake near Laplata, Missouri, but did not install the valves required by §195.260(e). PHMSA reviewed the project files and inspected the area during the inspection to confirm the required valves to protect the lake crossing had not been installed.

2. §195.412 Inspection of rights-of-way and crossings under navigable waters

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Sinclair failed to inspect the surface conditions on or adjacent to each pipeline right-of-way (ROW). Sinclair conducted the inspections required by §195.412(a) by aerial patrol, however, it failed to maintain the pipeline ROW in a condition that is appropriate for aerial patrolling to inspect the surface conditions on or adjacent to each pipeline ROW. PHMSA's field inspection observed tree canopy and vegetation cover over the ROW, which precluded Sinclair from inspecting the surface conditions at the following locations by aerial patrol:

- ROW to the west of the Hwy 218 crossing south of Montrose, IA
- ROW on Sessford Property west of Argyle, IA
- ROW approximately 0.5 miles east of Gorin, MO
- ROW between Hwy 139 and Maple St, Bosworth, MO
- ROW on the west side of the North Missouri River block valve
- ROW on both sides of Robinson Pike Rd, Grandview, MO
- ROW north of 3rd St in Grandview, MO
- ROW on both sides of Martha Truman Rd , Grandview, MO
- ROW on Burr Oak Woods Nature Center, (Missouri Conservation Department property) north of the South Burr Oak Woods Block Valve

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2,

2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum 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. We have reviewed the circumstances and supporting documentation involved for the above probable violations and have recommended that you be preliminarily assessed a civil penalty of \$97,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$97,100

Proposed Compliance Order

With respect to items 1 and 2, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Sinclair Transportation 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 Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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, or request a hearing under 49 CFR § 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 a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2020-5020** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

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

Cc: Jon Brown, Regulatory Compliance Coordinator, jbrown@sinclairoil.com

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to Sinclair's failure install valves on each side of the water crossing of Sante Fe Lake outside of Laplata, MO as required by §195.260(e), Sinclair must complete the following measures:
 - a. Within 30 days of the issuance of the Final Order: assess the location of the valves and update the Emergency Flow Restricting Devices study as needed to identify the location of any additional valves required to protect the Sante Fe Lake crossing.
 - b. Within 90 days of the issuance of the Final Order: provide to the Director, Central Region, a plan and schedule to complete the installation of the valves required to protect Sante Fe Lake with the following requirements:
 - i. Perform the installation of required valves within 12 months; and
 - ii. Provide to the Director quarterly progress reports and a final report upon completed of the installation of required valves.
2. In regard to Item Number 2 of the Notice pertaining to Sinclair's failure to inspect the surface conditions on or adjacent to each pipeline right-of-way as required by §195.412(a), Sinclair must complete the following measures:
 - a. Within 30 days of the issuance of the Final Order: assess the right-of-way to determine which locations require clearing to allow for effective aerial patrols or establish alternate effective patrols for those locations where clearing will not be conducted.
 - b. Within 90 days of issuance of the Final Order: provide to the Director, Central Region, a plan and schedule to complete the identified right-of-way clearing and records of the completed patrols with the following requirements:
 - i. Complete all necessary clearing within 12 months; and
 - ii. Provide to the Director quarterly progress reports and a final report upon completion of all planned right-of-way clearing.
3. It is requested (not mandated) that Sinclair maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan Beshore, Director, Central 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.