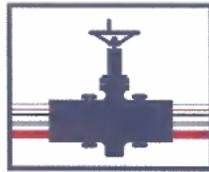


JAN 24 2017



PLAINS
PIPELINE, L.P.

January 23, 2017

Via Electronic and Overnight Mail

Mr. Alan K. Mayberry
Associate Administrator for Pipeline Safety
Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration (PHMSA)
1200 New Jersey Avenue, SE, 2nd Floor
Washington, DC 20590

**Re: Petition for Reconsideration of Final Order, In the Matter of Plains Pipeline, L.P.
CPF 4-2015-5025**

Dear Mr. Mayberry,

In accordance with Section 190.243 of Part 49 of the U.S. Code of Federal Regulations, enclosed with this letter please find a Petition for Reconsideration of the Final Order served to Plains Pipeline, L.P. ("Plains) by the Pipeline and Hazardous Materials Safety Administration's (PHMSA) on January 3, 2017. In light of the facts described in the Petition, Plains submits that the imposition of the Final Order is unwarranted and we respectfully request that the Petition be granted and the Final Order re-issued with a finding that Plains complied with the applicable regulations.

Please do not hesitate to contact me if you have any questions, or require any additional information.

max Sincerely,

Dean Gore
Vice President – Environmental and Regulatory
Compliance
Plains Pipeline, L.P.

Enclosures

cc: Teresa A. Gonsalves, Esquire, Chief Counsel, PHMSA, PHMSAchiefcounsel@dot.gov

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

_____)	
In the Matter of)	
)	
Plains Pipeline, L.P.,)	CPF No. 4-2015-5025
)	
Respondent.)	
)	
_____)	

**RESPONDENT'S
PETITION FOR RECONSIDERATION**

Pursuant to Section 190.243 of Part 49 of the Code of Federal Regulations, Plains Pipeline, L.P. ("Plains) hereby requests that the Pipeline and Hazardous Materials Safety Administration (PHMSA) reconsider its December 27, 2016, Final Order (CPF 4-2015-5025) ("Final Order"). Plains received service of the Final Order on January 3, 2017. This petition for reconsideration is timely since it is being submitted within 20 days after receipt of the Final Order. *See* 49 C.F.R. § 190.243(a).

The Final Order found that Plains violated 49 C.F.R. § 195.214(a) by performing welds on Plains' Jal, New Mexico to Wink, Texas pipeline construction project without having a properly qualified welding procedure. The Final Order also found that Plains violated 49 C.F.R. § 195.222(a) by failing to qualify each welder on the Jal-Wink project in accordance with API Standard 1104. The Final Order did not impose civil penalties but stated that the findings would be considered prior offenses in any subsequent enforcement action taken against Plains.

As described in this petition, Plains did in fact properly qualify each welder on the Jal-Wink project and did use a properly qualified welding procedure. The enclosed exhibits demonstrate that the key document cited by the Final Order, the Welder Qualification Records, contained a transcription error that misidentified the grade of pipe used. Because the proper grade of pipe was used during welder qualification for the Jal-to-Wink project and because a qualified welding procedure was used for work on the project, no violation of PHMSA regulations occurred. Plains therefore respectfully requests that the Associate Administrator grant this petition for reconsideration and re-issue the final order with a finding that Plains complied with the applicable welding regulations.

I. Statement of the Matter

On October 29, 2015, PHMSA issued a Notice of Probable Violation (NOPV) and Proposed Compliance Order (PCO) (CPF 4-2015-5025) to Plains regarding certain alleged violations of the Pipeline Safety Regulations.¹ The NOPV/PCO arose from PHMSA's onsite inspection and subsequent document review of Plain's Jal-to-Wink pipeline construction project during the period from April 2014 through October 2015. The NOPV/PCO identified two alleged violations:

- 1) *"Plains performed welding on their Jal to Wink Pipeline construction without having a properly qualified welding procedure as required by § 195.214 and AP 1104 Section 5 (incorporated by reference)."*
- 2) *"Plains failed to properly qualify welders that performed welding on the Jal to Wink pipeline according to the requirements of § 195.222(a) and API 1104 (incorporated by reference)."*

The NOPV/PCO did not propose civil penalties for these alleged violations.

Plains responded to the NOPV/PCO on December 2, 2015 ("Notice Response Letter"). With regard to the first alleged violation, the Notice Response Letter clarified and confirmed that Plains used two welding procedures on the Jal to Wink 20-inch pipe segment: CS-F52M214 and CS-G60L203. This information had previously been provided to PHMSA. The Notice Response Letter also confirmed that a different welding procedure, CS-G4265L205, was not used on the Jal to Wink 20-inch pipe segment.

With regard to the second alleged violation, the Notice Response Letter stated that the welders who performed the welding on the subject line were actually qualified using X52 pipe, not X42. Plains sought to introduce documents supporting its argument that a transcription error on the Welder Qualification Records misidentified as X42 the pipe used during welder qualification when in fact the pipe used for the welder qualification was X52 pipe, which is within the scope of welding procedure CS-G60L203.

On January 3, 2107, Plains received service of a PHMSA Final Order in this matter. The Final Order properly found that Plains submitted sufficient evidence in the Notice Response Letter to demonstrate that CS-G60L203 and CS-F52M214 (rather than CS-G4265L205) had been used on the Jal-Wink project. However, the Final Order still found that Plains violated 49 C.F.R. § 195.214(a) by performing welds on Plains' Jal, New Mexico to Wink, Texas pipeline construction project without having a properly qualified welding procedure. The Final Order also found that Plains violated 49 C.F.R. § 195.222(a) by failing to qualify each welder on the Jal-Wink project in accordance with API Standard 1104. The Final Order did not impose civil penalties but stated that the findings would be considered prior offenses in any subsequent enforcement action taken against Plains.

¹ Plains received the NOPV/PCO on November 2, 2015.

II. Basis for Reconsideration

A. Procedure CS-G60L203 Was Properly Qualified When Used on the Jal to Wink Pipeline Construction Project

The Final Order found that Plains violated 49 C.F.R. § 195.214(a) by performing welds on the pipeline without having a properly-qualified welding procedure. This finding is based primarily on a determination about the sufficiency of the evidence submitted by Plains:

The only evidence offered in support of Respondent's claim consisted of an email exchange, dated November 10, 2015, which claimed that Plains "did not have any X42 at the yard as we normally purchase X52." However, the Welder Qualification Records clearly show that API 5L X42 material was used for welder qualification. The email does not provide any proof that API 5L X52 was used at the time welders were qualified for the Project; it merely states that Plains "normally purchase[s] X52" material.²

The Final Order also found that because "API 5L X42 material is outside of the range of base materials specified by procedures CS-G60L203 and CS-F52M214... Plains' welders performed qualification tests using a grade of material not specified by the welding procedure, in violation of 49 C.F.R. § 195.214(a) and API Standard 1104."

Several documents intended to be included with the above-referenced November 10, 2015 e-mail, were inadvertently omitted when the Plains Notice Response Letter was submitted. These documents, which are included as **Exhibit 1**, would have confirmed that X52 pipe was used during the welder qualifications as discussed further below. We address each of the findings in greater detail below.

Pursuant to 49 C.F.R. § 195.214(a), "welding must be performed by a qualified welder or welding operator in accordance with a welding procedure qualified under section 5, section 12 or Appendix A of API Std 1104 (incorporated by reference, see §195.3), or section IX of ASME Boiler and Pressure Vessel Code." The welding procedure must be evaluated through destructive testing of the test welds. In addition, the welding procedure must be recorded in detail, results of the qualifying tests must be retained, and the procedure as qualified must be followed whenever the procedure is used.³

First, Plains used the proper welding procedure for the pipeline. Of relevance to this matter, the Jal to Wink pipeline was constructed with 20" X60 pipe. The Final Order found that "[t]he evidence presented by Respondent in response to the Notice is sufficient to indicate that Plains used welding procedures CS-G60L203 and CS-F52M214 during construction of the Project."⁴

² Pipeline and Hazardous Materials Safety Administration Final Order CPF 4-2015-5025 (Dec. 27, 2016) at 4 (internal citations omitted).

³ 49 C.F.R. § 195.214(b).

⁴ Pipeline and Hazardous Materials Safety Administration Final Order CPF 4-2015-5025 (Dec. 27, 2016) at 3.

Second, the welding procedures were properly qualified. Welding procedure CS-G60L203 specifies a range of base materials from API 5L X46 through API 5L X60 and the procedure was properly “qualified under section 5, section 12 or Appendix A of API Std 1104”⁵ for use, as demonstrated by the enclosed records for CS-G60L203 and CS-F52M214.⁶

Third, the welders also were properly qualified as discussed further in Section II.B. The base material of the Jal to Wink project was 20-inch grade X60 pipe. This base material and the X52 pipe used to qualify the welders are covered by the scope of CS-G60L203 as qualified under API Standard 1104 section 5.4.2.2:

“For the purposes of this standard, all materials shall be grouped as follows:

a. Specified minimum yield strength less than or equal to 42,000 psi (290 MPa).

b. Specified minimum yield strength greater than 42,000 psi (290 MPa) but less than 65,000 psi (448 MPa).

c. For materials with a specified minimum yield strength greater than or equal to 65,000 psi (448 MPa), each grade shall receive a separate qualification test.” (emphasis added)

Plains notes that the material used to qualify individual welders has no impact on whether the welding procedure itself was properly qualified. PHMSA has cited no provision in API Standard 1104 that modifies the qualification status of a procedure based on a subsequent erroneous welder qualification. More importantly, Section II.B. of this petition makes clear that the welders on the Jal to Wink project were in fact properly qualified with X52 pipe in accordance with section 195.222. Thus, the finding that Plains violated 49 C.F.R. § 195.214(a) is unsubstantiated and should be re-issued as a finding of compliance.

B. The Welders on the Jal to Wink Pipeline Construction Project Were Qualified Using a Pipe Grade within the Scope of Procedure CS-G60L203

According to the final order:

*Plains offered only unsubstantiated evidence that welders on the Project had “actually qualified using X-52 pipe, not X-42.” In opposition to the arguments and allegations in the Response, the Welder Qualification Record contained in the Violation Report clearly indicates that API 5L X42 pipe was used to qualify welders on the Project.*⁷

⁵ 49 C.F.R. § 195.214(a).

⁶ Welding procedure CS-G60L203 and the Procedure Qualification Record for CS-G60L203 are enclosed as **Exhibit 3**. The welding procedure for CS-F52M214 and the Procedure Qualification Record for CS-F52M214 are enclosed as **Exhibit 4**.

⁷ Pipeline and Hazardous Materials Safety Administration Final Order CPF 4-2015-5025 (Dec. 27, 2016) at 5.

As noted above, critical documents demonstrating that X52 pipe was used to qualify welders on the Jal to Wink Pipeline were inadvertently omitted when Plains' Notice Response Letter was submitted to PHMSA. Plains also pointed to a subsequent inspection by PHMSA which the Company argued confirmed the use of X52 pipe to qualify the pipeline. Plains now submits additional documents and declarations of its employees as the Final Order found that Plains' "assertion about the PHMSA inspector's alleged observation of API 5L X52 material does not prove that API 5L X52 material was actually used to qualify welders for the Project."⁸

Specifically, the pipe grade used during welder qualification was misidentified on the Welder Qualification Records as X42 due to a transcription error. The documents as **Exhibit 1**, which should have been included with the response letter, consist of a purchase orders and milltest report for the pipe used to conduct qualifications testing. As the purchase order indicates, 168.4 feet of X52 pipe was delivered to the testing facility on Friday, June 20, 2014 and charged to the "Jal to Wink" project. This pipe was cut into segments and used to qualify 35 welders on CS-G60L203 on Monday, June 23, 2014. Indeed, as the email included in the Notice Response Letter stated, only X52 pipe is ever present at the testing facility. This contrasts with the pipe actually used on the pipeline, 20" X60 pipe, which was released for use in June 2014. *See Exhibit 2.*

Additional information also demonstrates that X52 pipe was used during the welder qualifications. The third party contractor retained the test fittings used during the welder qualification tests, which were marked with each welder's name and unique ID, as well as the heat number and grade markings on the pipe test fittings. These qualification tests were verified by PHMSA inspector Noah Matthews who visited the location where the welder qualification tests occurred and viewed the marked pipe sections that had been used for welder qualifications. The Declaration of Wayne E. Roberts included as **Exhibit 5** attests to these facts and verifies copies of the purchase orders referenced above. Plains knew that PHMSA already had the information and as such the Notice Response Letter referred to Mr. Matthews' inspection but did not provide further documentation. However, this documentation should be considered by PHMSA in reviewing the Final Order;⁹ indeed, this information should have been considered by PHMSA but it is not noted in the NOPV/PCO.

As demonstrated in the enclosed evidence and as previously shown to PHMSA inspectors, the welders on the Jal to Wink project were properly qualified on the welding procedure used for the project, CS-G60L203. The transcription error in the Welder Qualification Records does not render the welder qualification void. Therefore, no violation of 49 C.F.R. § 195.222(a) occurred. Plains respectfully requests that the Final Order be reconsidered and the finding should be re-issued as a finding of compliance.

III. PHMSA's Final Order Should Be Withdrawn

In light of the preceding information, Plains submits that the imposition of the Final Order is unwarranted because Plains complied with PHMSA regulations regarding welding for

⁸ Pipeline and Hazardous Materials Safety Administration Final Order CPF 4-2015-5025 (Dec. 27, 2016) at 4.

⁹ 49 C.F.R. § 190.243(b).

the Jal to Wink project. Plains respectfully requests that the Final Order of December 27, 2016 and its findings of violations be withdrawn.



Dean Gore
Vice President – Environmental and
Regulatory Compliance
Plains Pipeline, L.P.

Date: January 23, 2017