

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 31, 2018

Steve Jacobs
President
Harvest Pipeline Company
1111 Travis Street
Houston, TX 77002

CPF 4-2018-5016

Dear Mr. Jacobs:

Between November 3, 2016 and January 27, 2017, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected your Eugene Island Facility in New Iberia, LA and the Southwest Pass 24 Oil Terminal Facility in Venice, LA and the Harvest Pipeline Company records in Houston, TX.

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

1. §194.107 General response plan requirements

(c) Each response plan must include:

(1) A core plan consisting of-

(ix) Drill program-an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP

guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

Harvest Pipeline Company failed to follow their Facility Response Plan Section 1 Introduction and Section 4 Evaluation. Harvest Pipeline's drill program references the PREP Guidelines; however, their records demonstrate that they did not follow the Guidelines when they conducted their drills. Records provided by Harvest did not consistently document core components exercised, lessons learned, or signatures of authorized representatives.

2. §194.121 Response plan review and update procedures

(a) Each operator shall update its response plan to address new or different operating conditions or information. In addition, each operator shall review its response plan in full at least every 5 years from the date of the last submission or the last approval as follows:

- (1) For substantial harm plans, an operator shall resubmit its response plan to OPS every 5 years from the last submission date.**
- (2) For significant and substantial harm plans, an operator shall resubmit every 5 years from the last approval date.**

Harvest Pipeline failed to resubmit its response plan to PHMSA within 5 years from the date of the last submission or the last approval. The previous response plan was submitted and approved in 2010, and the current response plan should have been submitted/approved at the 5-year mark in 2015, but was not submitted until September 2016.

3. §195.402 Procedural manual for operations, maintenance, and emergencies

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

- (5) Analyzing pipeline accidents to determine their causes.**

Harvest Pipeline failed to follow their procedure, Liquid O&M Manual, P-195.402c5: Accident and Incident Investigation for conducting investigations to determine the probable cause of an accident. The procedures state "The investigation process is the same regardless of the level of investigation to be used. What is different is the investigation method or methods that will be used to identify cause and implement safeguards and corrective actions." Harvest Pipeline failed to perform an analysis and document their findings for two reported accidents (PHMSA Form F7000.1 ID's 20160310 and 20150070.)

4. §195.402 Procedural manual for operations, maintenance, and emergencies

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

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

Harvest Pipeline failed to follow their procedure, Liquid O&M Manual, P-195.402c13: Review of Work done by Operator. The procedure states “Each supervisor will review the work performed by the operations personnel reporting to him to ensure that the procedures in use are adequate and any deficiencies or recommendations are reported. This review should be documented on form F-195.402(c)(13) Review of Work Done by Operator.” Harvest Pipeline could not provide any completed copies of the form or confirmation that the review had been completed.

5. §195.402 Procedural manual for operations, maintenance, and emergencies

(d) Abnormal operation. 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;

(5) 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.

Harvest Pipeline failed to follow their procedure, Liquid Operations & Maintenance Manual P-195.402d: Abnormal Operations to document the periodic review required by §195.402(d)(5). The procedure states “Periodically, or as needed (after a condition has occurred), members of the Harvest Control Center Management Team and or Lead Controllers designated shall review the response of control center personnel to ensure the effectiveness of the procedures controlling an abnormal condition.” Harvest Pipeline could not provide the required documentation to show that this procedure was followed. In Table 3: Necessary Compliance Records, it shows that Review of Personnel Response to Abnormal Operations records will be kept for 3 years. Harvest did not produce any records at the time of the inspection, but stated that the Controller Supervisor conducts verbal reviews.

6. §195.403 Emergency Response Training

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

(1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and

(2) Make appropriate changes to the emergency response training program as

necessary to ensure that it is effective.

Harvest Pipeline failed to document and retain records when following their procedure, Liquid Operations & Maintenance Manual P-195.403: Training. The procedure states “At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall: 1. Review with personnel their performance in meeting the objectives of the emergency response training program and review employee activities to determine whether the procedure was effectively followed in each emergency.”

7. §195.403 Emergency Response Training

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

Harvest Pipeline failed to document their verification of supervisors’ knowledge of emergency response procedures in accordance with their procedure, Liquid Operations & Maintenance Manual P-195.403: Training. The procedure states that “A verification of supervisor knowledge is required, which should be documented on form (F-195.403c).” Harvest Pipeline has not been consistently documenting their verification of supervisor knowledge. The Operator had one form, dated 12/1/16 (The HQ inspection was conducted Nov 28th – Dec 2nd 2016). The form was not completely filled out and did not include what topics were reviewed. There were no additional records.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations. 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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of **\$88,300** as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$19,300
4	\$19,000
5	\$15,500
6	\$19,000
7	\$15,500

Warning Items

With respect to item 2, PHMSA reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1, 3, 4, 5, and 6, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Harvest Pipeline 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 Compliance 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). 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 4-2018-5016** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to satisfying the requirements for a drill program by following the National Preparedness for Response Exercise Program (PREP) Guidelines, Harvest Pipeline Company must, upon completion of their emergency response drills, perform an objective evaluation of personnel, procedures, drill scenarios, and other factors, where lessons learned are used in response plan revisions. This must be done in accordance with their Facility Response Plan Guidelines- Section 7.3.2: Certification to include a signature of an authorized representative.
2. In regard to Item Number 3 of the Notice pertaining to the failure to analyze pipeline accidents to determine their causes, Harvest Pipeline Company must amend their procedure to include analysis techniques or methods to analyze pipeline accidents to determine their causes. Section B: Conduct the Investigation, does not provide detail of how to actually conduct an accident investigation other than to refer to a diagram that identifies the organization flow of conducting an investigation, yet there is no diagram.
3. In regard to Item Number 4 of the Notice pertaining to review of work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. Harvest Pipeline must begin to conduct reviews of operations personnel and document those reviews on Harvest Pipeline Form F-195.402(c)(13) titled Review of Work Done by Operator. This must be done in accordance with their Liquid O&M Manual P-195.402c13: Review of Work Done by Operator.
4. In regard to Item Number 5 of the Notice pertaining to review of response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found. Harvest Pipeline failed to provide documentation of reviews of the response of control center personnel to ensure the effectiveness of procedures controlling abnormal conditions. Harvest must begin documenting their verbal reviews of responses of control center personnel for abnormal conditions. This must be done in accordance with their Liquid O&M Manual P-195.402d: Abnormal Operations.
5. In regard to Item Number 6 of the Notice pertaining to review of emergency personnel performance in meeting the objectives of the emergency response training program. Harvest Pipeline failed to provide documentation of reviews of emergency personnel performance. Harvest must conduct reviews of emergency personnel performance and document these reviews at the required interval. This must be done in accordance with their Liquid O&M Manual P-195.403: Training.
6. Aforementioned to be accomplished within 30 days following receipt of the Final Order.

7. It is requested (not mandated) that Harvest Pipeline Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest 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.