

August 9, 2019

Mr. Willie C. W. Chiang
Chief Executive Officer and Director
Plains All American Pipeline, LP
333 Clay Street, Suite 1600
Houston, Texas 77002

Re: CPF No. 4-2018-5026

Dear Mr. Chiang:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation against your subsidiary, Plains Marketing, LP, and assesses a civil penalty of \$81,500. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated January 25, 2019. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwestern Region, Office of Pipeline Safety, PHMSA
Mr. Dean Gore, Vice President, Environmental and Regulatory Compliance, Plains All
American Pipeline, LP, 333 Clay Street, Suite 1600, Houston, Texas 77002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)

Plains Marketing, LP,)
a subsidiary of Plains All American Pipeline, LP,)

Respondent.)

CPF No. 4-2018-5026

FINAL ORDER

From May 7, 2018 through August 24, 2018, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Plains Marketing, LP's (Plains or Respondent), tank terminal facilities in St. James, Louisiana and Cushing, Oklahoma. Plains Marketing, LP is an operating subsidiary of Plains All American Pipeline, LP (PAA).¹ PAA operates midstream energy infrastructure and provides logistics services for crude oil, natural gas liquids and natural gas.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated December 20, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Plains had violated 49 C.F.R. § 195.505(b) and proposed assessing a civil penalty of \$81,500 for the alleged violation.

Plains responded to the Notice by letter dated January 24, 2019 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$81,500. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order without further proceedings.

FINDING OF VIOLATION

¹ US SEC Form 10-L, Plains All American Pipeline, LP, *available at* https://www.edgarexplorer.com/EFX_dll/EdgarPro.dll?FetchFilingHTML1?SessionID=OzIxUFTZgRk1iwc&ID=13256218 (last accessed July 9, 2019).

² Plains All American Pipeline, About Us, *available at* <https://www.plainsallamerican.com/about-us> (last accessed July 9, 2019).

In its Response, Plains did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b), which states:

§ 195.505 Qualification program.

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

- (a)
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b) by failing to ensure through evaluation that individuals performing covered tasks were qualified. Specifically, the Notice alleged that two employees performed monthly tank inspections, covered task (CT) 27.1, in 2017 and 2018, without being qualified to perform that covered task and without the direct supervision of an individual qualified to perform that covered task.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(b) by failing to ensure through evaluation that individuals performing covered tasks were qualified.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.³ In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$81,500 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$81,500 for Respondent's violation of 49 C.F.R. § 195.505(b), for failing to ensure through evaluation that individuals performing covered tasks were qualified. Plains neither contested the allegation nor presented any evidence or argument

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$81,500 for violation of 49 C.F.R. § 195.505(b).

The total civil penalty of **\$81,500** was paid in full by wire transfer on January 25, 2019.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

August 9, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued