



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

8701 S. Gessner, Suite 630  
Houston, TX 77074

## **NOTICE OF PROBABLE VIOLATION PROPOSED CIVIL PENALTY**

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 20, 2018

Dean Gore  
Vice President, Environmental & Regulatory Compliance  
Plains All American Pipeline  
333 Clay Street, Suite 1600  
Houston, Texas 77002

**CPF-4-2018-5026**

Dear Mr. Gore:

From May 7, 2018 to August 24, 2018, a representative 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 your St James and Cushing Tank Terminal Facilities in St James, Louisiana and Cushing Oklahoma.

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

**1. §195.505 Qualification Program.**

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

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

Plains All American Pipeline (PAAP) failed to ensure through evaluation that two individuals performing covered tasks were qualified for two calendar years. The PHMSA Inspector reviewed training records in ISNetworld and found that two employees were not qualified to perform covered task (CT) 27.1: Monthly Tank Inspections in 2017 and 2018.

The Span of Control listed in Appendix A is 1 qualified individual to 3 non-qualified individuals. The Operator stated that neither employee conducted monthly tank inspections under the direct supervision of an individual certified under CT 27.1. Both were immediately qualified to perform monthly tank inspections after this was brought to the Operator's attention.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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. 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 \$81,500.

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).

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-4-2018-5026** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary L. McDaniel', written over the printed name.

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

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