

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 13, 2009

Mr. Tom J. McLane
Director, Western Division
Plains Products Terminals LLC
5900 Cherry Avenue
Long Beach, CA 90805

CPF 5-2009-0016M

Dear Mr. McLane:

On February 6-8, 2009, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Plains Products Terminals LLC's procedures and supporting records for its Operator Qualification (OQ) program in Martinez, California.

On the basis of the inspection, PHMSA identified the apparent inadequacies within your OQ plans or procedures, as described below:

1. §192.805 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 Products Terminals' procedures did not require that individuals from any other entity performing covered tasks on its behalf be evaluated and qualified prior to task performance. Plains Products Terminals' representative explained they will use "in-house" qualified personnel from other company units if needed. Regardless, Plains Products Terminals' OQ procedures do not have provisions for using outside contractors if the operational or maintenance need arises.

2. §192.805 Qualification program

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

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

Plains Products Terminals specifies in its OQ manuals that critical tasks such as "Hot Tapping" need to be performed by qualified individuals only. However, the covered task list shows the ratio of non-qualified staff that can work under qualified individuals performing hot tapping to be "2". Plains Products Terminals' OQ procedures do not address this discrepancy on whether non-qualified personnel can be directed and observed by a qualified individual during hot tapping.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. 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. Be advised that all material you submit in response to this enforcement action is subject to being 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.

If, after opportunity for a hearing, your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 60 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

In correspondence concerning this matter, please refer to **CPF 5-2009-0016M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 H. Monfared (#125036)