

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 1, 2009

Mr. Ron McClain
Vice President of Operations and Engineering
Kinder Morgan Energy Partners, L.P., Products Pipelines
500 Dallas Street
Houston, TX 77002

CPF 5-2009-5020

Dear Mr. McClain:

From October 20, 2008 to November 6, 2008, representatives of the Arizona Corporation Commission pursuant to Chapter 601 of 49 United States Code inspected your Arizona refined petroleum pipeline products pipelines. As part of their inspection, they reviewed records at your offices in Colton and Orange, California; and Phoenix, Tucson, and Yuma, Arizona.

As a result of the inspection, it appears that Kinder Morgan Energy Partners, L.P. (KM) have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. **§195.428(a) Overpressure safety devices and overfill protection systems**

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The time interval for conducting an inspection of the overpressure safety device LPRV-12 on line section 117 exceeded 15 months. Specifically, the inspection records indicate that the relief valve was inspected on July 12, 2006. The next documented inspection of the relief valve did not take place until November 30, 2007. Kinder Morgan could not locate any additional records of valve inspections performed between the dates mentioned above.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$26,300.00 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$26,300

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. 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.

In your correspondence on this matter, please refer to **CPF 5-2009-5020** 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 J. Haddow (#123022)
Arizona Corporation Commission-Mr. Robert Miller