

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 17, 2018

Mr. Greg Armstrong
Chairman and CEO
Plains All American Pipeline, LP
333 Clay Street, Suite 1600
Houston, Texas 77002

CPF 5-2018-0001

Dear Mr. Armstrong:

On several occasions between July 31, 2017 and August 3, 2017, 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, inspected Plains Marketing, LP, a subsidiary of Plains All American Pipeline, LP (Plains), 6-inch gas distribution pipeline system that serves Martinez Terminal in Concord, California.

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

1. **§192.605 Procedural manual for operations, maintenance, and emergencies.**
(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and

updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Plains violated 49 C.F.R. § 192.605(a) by failing to review and update its manual of written procedures for conducting operations and maintenance activities and for emergency response (Manual) at intervals not exceeding 15 months, but at least once each calendar year. The Manual's Review/Revision Log provided at the time of the inspection showed that the Manual had been reviewed in March 2015 but not in 2016.¹ Plains did not provide PHMSA with any other records or substantiating evidence to demonstrate that it conducted a review and made updates to its Manual in 2016.²

- 2. §192.605 Procedural manual for operations, maintenance, and emergencies.**
(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Plains violated 49 C.F.R. § 192.605(a) by failing to follow its written procedures for conducting operations and maintenance activities and for emergency response. Specifically, Plains' O&M Manual Review Procedure, Section 2.4 states:

The Operations Department shall review the actual work done by PLAINS operating personnel to determine the effectiveness and adequacy of the procedures used in the normal operation and maintenance of the fuel gas pipeline. Those reviewing the manual shall submit proposed procedure modifications to the EHS Department for review and inclusion in the manual, if appropriate.³

At the time of the PHMSA inspection, Plains could not provide any records or other substantiating evidence to demonstrate that the review of actual work done by its operating personnel to determine the effectiveness and adequacy of the procedures used in the normal operation and

¹ Exhibit A to Violation Report.

² In fact, Plains' Sr. Environment & Regulatory Compliance Specialist confirmed to PHMSA during the inspection that the review was not conducted in 2016 or 2017. Violation Report at 8.

³ Exhibit B to Violation Report.

maintenance of the fuel gas pipeline was conducted.⁴

3. § 192.625 Odorization of gas.

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable...

Plains violated 49 C.F.R. § 192.625(f) by failing to conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. At the time of the inspection, Plains could not produce records or other substantiating evidence to demonstrate that it was conducting periodic sampling of its combustible gas. Instead, Plains stated that it did not conduct periodic sampling to assure proper concentration of the odorant because it relies on the written statement from PG&E⁵ that the gas it supplies to Plains is fully odorized. However, Plains is not an operator of a master meter system as defined in 49 C.F.R. § 191.3, and therefore cannot rely on written verification from its gas source that the gas has the proper concentration of odorant pursuant to 49 C.F.R. § 192.625(f)(1).⁶

Proposed Compliance Order

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.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Item 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Plains. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

⁴ In fact, Plains' Sr. Environment & Regulatory Compliance Specialist confirmed to PHMSA during the inspection that this review was not conducted. Violation Report at 16.

⁵ Exhibit C to Violation Report

⁶ Plains' system is not a master meter system because it is not a system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project or apartment complex, where it purchases metered gas from an outside source for resale through a gas distribution system via meter or by other means, such as rents. Instead, Plains is the operator and ultimate consumer of the gas it supplies to its thermal oxidizer unit and process heater at the Terminal. See *In the Matter of Plains All American Pipeline, LP, Final Order on Petition for Reconsideration*, CPF No. 5-2009-0018 (August 30, 2013).

Warning Items

With respect to Items 1 and 2, we have 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 these items. Be advised that failure to do so may result in the Plains being subject to additional enforcement action.

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).

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 5-2018-0001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Kim West
Acting Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 M. Garcia (#156584)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item 3 of the Notice pertaining to not conducting a test to assure proper concentration of the odorant, Plains must develop a detailed written process for conducting periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable and conduct the test as per the written procedure. Plains' written procedure and periodic sampling records must be submitted to PHMSA within 180 days after receipt of the Final Order letter.
2. It is requested (not mandated) that Plains maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Kim West, Acting Director, Western 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.