

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

VIA E-MAIL TO MR. MATTHEW POULIN

January 19, 2023

Mr. Matthew Poulin
Area Manager
NAFTEX Operating Company
14333 Breckenridge Rd.
Bakersfield, CA 93307

CPF 5-2023-027-NOPV

Dear Mr. Poulin:

From June 7 through 8, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the facilities and records of NAFTEX Operating Company's (Naftex) gas transmission pipeline in Bakersfield, California.

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

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.

Naftex failed to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, Naftex failed to follow its Gas Pipeline Operations & Maintenance Manual, Procedure 6.01-*Atmospheric Corrosion*. Section 5.1 of the procedure requires that Naftex inspect all above-ground pipe for atmospheric corrosion every 3 calendar years, not to exceed 39 months, and section 5.7 of the procedure requires that Naftex complete any repairs or maintenance actions resulting from the atmospheric corrosion inspection before the next atmospheric corrosion inspection.¹ During the field inspection, PHMSA observed and photographed the above-ground pipe inside the fence and on the upstream side of the fenced area at the Mojave interconnect, showing severe atmospheric corrosion and unprotected bare pipe.² After the inspection, Naftex provided PHMSA with a copy of the three most recent atmospheric corrosion inspection reports. When reviewing the reports, PHMSA found that the above-ground pipe inside the fence and on the upstream side of the fenced area were not inspected during their 2019 and 2021 atmospheric corrosion inspections.³ Based on the severity of the atmospheric corrosion observed by PHMSA, it is likely that some atmospheric corrosion existed at the time of the 2019 atmospheric corrosion inspection, and if it had been included on the report, it should have been corrected by the 2021 atmospheric corrosion inspection in accordance with section 5.7 of the procedure.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. 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.

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.

¹ See Pipeline Safety Violation Report (Violation Report) at Exhibit A – Procedure 6.01 – Atmospheric Corrosion, pg. 2.

² See Violation Report at Exhibit B.

³ See Violation Report at Exhibit C and Exhibit D.

With respect to Item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Naftex Operating Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2023-027-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 F. Pirok (#22-232634)
Michael Finch, DOT Compliance Primary, mfinch@energyprojectllc.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to NAFTEX Operating Company (Naftex) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Naftex with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to the failure to follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response, within 90 days of receipt of the Final Order, Naftex must:
 - 1. Clean and coat the above-ground pipe inside the fence and on the upstream side of the fenced area; and
 - 2. Submit photographs to PHMSA to show that above-ground pipe inside the fence and on the upstream side of the fenced area has been cleaned and coated.
- B. It is requested (not mandated) that Naftex maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, 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.