

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

April 21, 2014

Mr. Terry McGill  
President  
CCPS Transportation, LLC  
1100 Louisiana  
Suite 3300  
Houston, TX 77002

**CPF 4-2014-5005**

Dear Mr. McGill:

On multiple occasions between March 25, 2013 and December 13, 2013, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected the construction plans, procedures, specifications, and records for construction of the Flanagan South pipeline. The written plans and procedures inspected included those of CCPS, the primary operator and a subsidiary of Enbridge Energy Company (Enbridge), as well as certain of Enbridge's written procedures which CCPS stated it was utilizing for construction of the pipeline (references to CCPS' procedures herein may include both).

As a result of the inspection, it appears that you have committed a Probable Violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

**1. §195.202, Compliance With Specifications or Standards**

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

CCPS did not follow their specifications for the manufacture of the pipe used to construct the Flanagan South Pipeline project.

During an inspection of the construction of the Flanagan South Pipeline Project, PHMSA became aware that CCPS waived several of its written specifications for the manufacture of the pipe to be used in the construction of the Flanagan South pipeline. PHMSA requested justification for the waivers. The response to PHMSA's Request for Specific Information included a copy of the Enbridge Engineering Standard (EES103) created as the standard for the manufacture of pipe for pipeline construction projects along with a document that summarized the specification, the requested waiver(s) and an explanation for each waiver. PHMSA was unable to identify in these procedures any section that described a waiver process. The procedures had no allowance for waiving any requirement. Also, CCPS's response did not include technical justification for the waivers. EVRAZ (pipe manufacture) provided an "Inspection and Test Checklist" for each step of the manufacturing process. The "Checklist" clearly shows that EVRAZ manufactured the pipe using the requested waivers.

#### Proposed Compliance Order

With respect to item one pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to CCPS. 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 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). 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 4-2014-5005** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration

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

## **PROPOSED COMPLIANCE ORDER**

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

1. In regard to Item Number one of the Notice pertaining to not following the company Specifications or Standards for the manufacture of steel pipe for pipeline projects CCPS (for the pipe that has already been purchased) must provide technical justification for the waivers and show that the waivers did not result in the pipeline being constructed with pipe that would pose an integrity threat to the public or environment. Also, if CCPS wants to allow waivers from their specifications they must modify their procedure or specification to define a process for waivers or variances from their specifications.
2. Item 1 should be completed with 30 days of issuance of the Final Order.
3. It is requested (not mandated) that CCPS maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest, 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.