

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

VIA ELECTRONIC MAIL TO: stan.horton@bwpipelines.com, dick.keyser@bwpipelines.com

April 8, 2021

Stanley C. Horton
President, CEO
Boardwalk - Texas Gas Transmission, LLC
9 Greenway Plaza, Suite 2800
Houston, TX 77066

CPF 3-2021-016-NOPV

Dear Mr. Horton:

From June 15 through June 19, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your subsidiary, Texas Gas Transmission, LLC's (Texas Gas), Control Room Management Program procedures and records in Owensboro, KY. Texas Gas Transmission is the primary for the CRM Safety Program Relationship which supports the following OPID's: **31278 Texas Gas Pipeline Company, 39210 Boardwalk Storage Services, 39470 Louisiana Energy and Power Authority**. The inspection was conducted remotely.

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

1. § 192.631 Control room management

(a) *General.*

(1)

(2) **The procedures required by this section must be integrated, as appropriate, with operating and emergency procedures required by §§ 192.605 and 192.615. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.**

Texas Gas failed to implement the controller training procedures as required. Section 192.631(a) requires operators that have a controller working in a control room that uses a SCADA system to have and follow written control room procedures that implement the requirements of § 192.631. Texas Gas has such a control room, and thus is required to follow the requirements of this section. Section 192.631(h) requires that an operator, subject to this section, establish a controller training program, which includes specific elements set forth in the regulation, that must be implemented. Although Texas Gas has controller training procedures in place, it failed to implement them as required by the regulation.

Specifically, Texas Gas 's CRM Plan, Section 9, provides a very high level blue print for training a controller. Section 9.2 of the CRM Plan states that a new controller is assigned to a mentor "so that the proper aspects of effectively performing gas Controller responsibilities can be learned and observed." The CRM Plan goes on to state, "[t]he Gas Controller should learn the following topics during this mentoring period:" and lists 11 activities or tasks that represent daily administrative type functions. There are additional requirements for controllers to learn:

- Pipeline System Map Familiarization
- Knowledge of Gas Flow
- Site-Specific Training
- Additional Training Topics (procedure and technical oriented topics)

However, the CRM Plan neither specifically identifies nor references how each controller is actually trained to carry out their roles and responsibilities. There is no mechanism to implement the training that is generally referred to in the CRM Plan. Instead, Texas Gas utilizes unstructured on the job training (OJT) to train new controllers.

When asked, during the inspection, how Texas Gas implements controller training, it was emphasized, time and again, it is "all on the job". None of the controller training is offered in a structured, uniform, or consistent manner. For example, web-based classes are available to the

controller, from various sources, but are not required. Another training resource available are occasional instructor led courses, but those are not established or defined for controller training in the CMR Plan. Pipeline hydraulics, compressor operations and responding to abnormal operations are just three critical areas a controller must understand for competency. There are no specific courses or structured learning that are required of the controllers during their training. Relying solely on unstructured mentorship does not satisfy the implementation requirement of the regulation because it is unstructured, not required, and wholly dependent upon the mentor's knowledge, comprehension and ability to effectively transfer knowledge. Additionally, without structured learning to define and verify the topics presented to and completed by a controller, there is no validation that all controllers are trained on the same topics that provide the same learning points. Structured training would also include assessment to verify that knowledge and skills were effectively transferred. These are required for proper implementation of an operators' Plan as it relates to controller training.

Further, Texas Gas 's CMR Plan, section 3 – Roles and Responsibilities, states that a controller must have “fundamental knowledge” to operate alone on the console. However, there is no definition of what “fundamental knowledge” means or how it is to be interpreted when assessing controller's knowledge and ability to operate the console alone. This is another example of where Texas Gas has a process, but has no program to implement the requirements of its plan.

Finally, § 192.631(h) also requires that the training content from the training program be reviewed once each calendar year, but at intervals not to exceed 15 months. Without specific, identified training content to implement, there is nothing to review. A structured training plan with implementation schedules and requirements, for each controller, provides a connection from the knowledge and skill requirement, as defined by procedure, to a specific training and learning requirement and course; the implementation. Texas Gas has no such implementation component to its CRM Plan and has not provided evidence that it has implemented its CRM Plan through some other means.

While on the Job Training is a critical function of training a controller to operate a pipeline system, it must be partnered with a structured training plan to ensure controllers are receiving accurate technical information, processes and procedures defined by the operator and all other content required for the training is covered. Texas Gas has no structured training, no checklist, and no content list that demonstrates how they implement the training plan for its controllers.

2. § 192.631 Control room management.

(a)

(e) Alarm management. Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:

(1)

(2) Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms,

or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;

Texas Gas failed to identify at least once each calendar month points affecting safety that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities.

During the inspection, reports for January 2017, December 2018, and July 2019 were chosen at random for review. These reports included limits enabled, inhibited alarms, changed limit reports, off scan for out of service and 6-month trending reports. The monthly review did not include the monthly identification of points that have forced or manual values. Texas Gas stated that they rarely place any points in manual or force, and therefore they did not require this review each month and did not pull any related records from SCADA. Additionally, Task 6608 Monthly Alarm/Alert Point Audit Task List in Appendix 5 of the Texas Gas 's CRM plan did not require the review of forced or manual values.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$37,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$37,100

Proposed Compliance Order

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 Texas Gas . 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. 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).

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 3-2021-016-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: Richard Keyser, Sr. VP Operations dick.keyser@bwpipelines.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to 1 of the Notice pertaining to your failure to implement the training procedure found in your CRM plan, Texas Gas -Boardwalk must implement a structured on the job training plan that includes, at a minimum: identification specific training content, web based or instructor led training, assessments for training courses and periodic progress, definitions of competency. This must be provided for all positions, defined in the control room, who will maintain operator qualification to operate a console for either assigned shift rotation or to fill a temporary vacancy. The training plan, should be developed so that the individual trainee, mentor and supervisor understand the requirements and can track progress. This must be completed within **180** days of receipt of the Final Order.

- B. It is requested (not mandated) that Texas Gas - Boardwalk maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central 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.