

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 2, 2018

Mr. Stan Chapman, III
Senior Vice President & General Manager, US Natural Gas
TransCanada Pipelines
700 Louisiana St.
Houston, TX 77002

CPF 5-2018-1006

Dear Mr. Chapman:

On November 13 through 17, 2017, 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 TransCanada Columbia Pipeline Group's Carter Creek gas pipeline in the vicinity of Evanston, Wyoming.

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 items inspected and the probable violations are:

1. **§192.605 Procedural manual for operations, maintenance, and emergencies**
(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.
(8) Periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedure when deficiencies are found.

TransCanada Columbia Pipeline Group (TransCanada) violated 49 C.F.R. § 192.605(b)(8) by failing to periodically review the work done by its personnel to determine the effectiveness and adequacy of its procedures used in normal operation and maintenance and modifying the procedure when deficiencies were found. During the inspection, TransCanada was unable to provide records of periodically reviewing work done by its personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance.¹

2. **§192.616 Public Awareness**
(a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see § 192.7).

TransCanada violated 49 C.F.R. § 192.616(a) by failing to implement its written continuing public education program that follows the guidance provided in API RP 1162. During the inspection, TransCanada could not provide records evidencing that it educated the public, appropriate government organizations, and persons engaged in excavation related activities of the provisions set forth in Section 192.616(d)(1)-(5).²

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.

¹ See 49 C.F.R. § 192.603(b)(requiring operators to keep records necessary to administer the procedures established under § 192.605); see also Violation Report at 6 (noting that TransCanada's Compliance Representative told PHMSA during the inspection that TransCanada did not have any of these records).

² See 49 C.F.R. § 192.616(d)(requiring education on (1) use of a one-call notification system prior to excavation and other damage prevention activities; (2) possible hazards associated with unintended releases from gas pipeline facilities; (3) physical indications that such a release may have occurred; (4) steps that should be taken for public safety in the event of a gas pipeline release; and (5) procedures for reporting such an event); see also 49 C.F.R. § 192.616(i)(noting that "the operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies").

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 numbers 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to TransCanada Columbia Pipeline Group. 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. 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 2018-1006** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Kim West
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 G. Ogirima (#157978)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to periodic review of work performance, TransCanada must submit a written plan for reviewing work performance to the Western Region Office within 90 days of issuance of the Final Order. TransCanada must also submit records evidencing implementation of its written plan (ie, records of periodically reviewing work done by its personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance) within 180 days of issuance of the Final Order.
2. In regard to Item Number 2 of the Notice pertaining to public awareness plan provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities, TransCanada must deliver mailers to the affected public in 2018 that cover the provisions of Section 192.616(d) and submit a copy to the Western Region Office within 90 days of issuance of the Final Order.
3. It is requested (not mandated) that TransCanada maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Kim West, 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.