U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.771.7800

NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER

OVERNIGHT EXPRESS DELIVERY

February 12, 2018

Mr. Kenneth Grubb
Chief Operating Officer
Tennessee Gas Pipeline Company
1001 Louisiana Street, Suite 1000
Houston, TX 77002

CPF 1-2018-1001

Dear Mr. Grubb:

From May 9-11, 2017, the Connecticut Department of Energy and Environmental Protection (CT DEEP) acting as Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the Tennessee Gas Pipeline Company's (TGP) records in Connecticut.

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 violation(s) are:

1. **§ 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).

TGP failed to implement its written continuing public education program. Specifically, TGP failed to follow its *O&M 232 Procedures, Damage Prevention and Public Awareness*, Revisions 2014-

01-01, 2015-07-01, 2016-06-01, 2016-09-01 (Procedures), Section 3.3, by not providing communication materials to Local Public Officials for 11 towns between 2012 and 2017.

During the inspection, CT DEEP inspector reviewed TGP's Procedures, and records of distribution of communication materials to Public Officials found in the *Public Awareness Contact Report*, dated 5/23/2017 (Records). The Procedures stated in part:

"3.3.1 Communication Materials

Communication materials including brochures, maps and handouts to be delivered during corporate and field contacts that incorporate appropriate messaging for each Stakeholder Group are included in the Public Awareness (PA) Tool Kit located on the PS website.

...

3.3.6 Public Officials

Local, state, or regional officials who are responsible for directing emergency preparedness activities or who have land use and street/road jurisdiction within 10 miles of KM pipeline facilities. Examples include the sub-groups listed below:

- *City and county managers*
- *City and county council members*
- *Mayors*
- *Planning and development directors*
- *City and county public works directors*
- *State highway department district engineers*
- *Zoning board members*

3.3.6.1 Public Officials Corporate Responsibilities:

Communication materials shall be delivered in a manner consistent with the Corporate Public Awareness Program Appendix A Baseline Messages and Supplemental Enhanced activity described in the Supplemental Enhanced Activities Section and Table 1 – Baseline and Supplemental Enhanced Activities requiring a communication response. The Company shall communicate with all Public Officials by e-mail or postal service.

For High Consequence Areas:

Communication materials shall be delivered in a manner consistent with the Corporate Public Awareness Program Appendix A Supplemental Messages and Supplemental Enhanced activity described in the Supplemental Enhanced Activities Section and Table 1 – Baseline and Supplemental Enhanced Activities requiring a communication response. The Company shall communicate with all public officials by e-mail or postal service.

...

3.3.8 Contact Information

Audience	*Baseline Materials*	*Baseline Frequency*	*Supplemental Enhancement Opportunity*
Public Officials	*PA Tool Kit Public Officials*	*Every 3 years*	*Local field employee contact outside 3 year requirement*

"

The Records TGP provided indicated that communication materials were not distributed to Local Public Officials in Bethany and Shelton, CT, through which TGP's pipelines pass. The Records also indicated that communication materials were not distributed to Local Public Officials in the following 9 towns that TGP's pipelines travel within 10 miles of:

- Colebrook, CT
- Cromwell, CT
- Durham, CT
- Middlefield, CT
- Middletown, CT
- Morris, CT
- Oxford, CT
- Plainville, CT
- South Windsor, CT

Therefore, TGP failed to follow its Procedures by not providing communication materials to the Local Public Officials for 11 towns within 10 miles of their pipeline system between 2012 and 2017.

2. **§ 192.706 Transmission Lines: Leak surveys.**

   Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year.

TGP failed to conduct leakage surveys of a transmission line at intervals not exceeding 15 months, but at least once each calendar year. Specifically, TGP utilized aerial vegetation leak surveys in paved areas where vegetation survey is ineffective at detecting leaks.

During the inspection, the CT DEEP inspector reviewed TGP's procedure for leak detection, O&M 215, *Patrolling and Leak Detection,* Revised 2017-02-01 (Procedure), and TGP's records of leak survey flights from 2015-2016 (Records). The Procedure stated in part:

> *"3.5 ...Conduct leakage surveys by walking, driving, flying or using a water vehicle. Note on the inspection report any construction activity, signs of erosion or sunken backfill and dead vegetation indicating leaks.*

For pipelines that transport gas without an odor or odorant, use continuous gas monitoring (e.g. flame ionization, Remote Methane Leak Detector, or other leak detection equipment approved by the Technical Services Managers) equipment when:

- *Surveying Class 3 and 4 areas*
- *Conducting leak surveys at highway and railroad crossings"*

The procedures do not prescribe TGP to use another method (*e.g.* leak detection device) over areas where no vegetation is present (*e.g.* large paved areas, dead soil areas, etc.). The procedure prescribes visual observation (erosion and vegetation) to conduct leak surveys in all areas except pipelines without an odor or odorant. The procedure does not provide further instruction on how to perform leak survey over areas where no vegetation exists.

The CT DEEP inspector observed various portions of TGP's transmission line system that travel under paved areas where no vegetation exists. The locations observed were:

1. 41.111581, -73.538991: High Ridge Park, Stamford
    a. Large paved parking lot
2. 41.312891, -73.047492: Hine Terrace, Derby
    a. Paved parking lot and roadway
3. 41.561615, -72.870224: Meriden Waterbury Turnpike, Southington
    a. Paved parking lot
4. 41.931458, -72.713970: Connecticut South Drive, Granby
    a. Paved parking lot

The CT DEEP inspector asked TGP if other types of leak surveys were conducted at locations where no vegetation is present. TGP stated that they do not perform any instrumented leak surveys in these areas. The Records reviewed confirmed that these areas were leak surveyed using only visual, aerial vegetation surveys.

Aerial vegetation survey is inadequate to perform leak surveys in areas where vegetation does not exist, such as these paved areas. Therefore, TGP failed to conduct leak surveys at intervals not exceeding 15 months, but at least once each calendar year in these paved areas.

Proposed Civil Penalty

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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of $39,700 as follows:

Item number	PENALTY
1	$39,700

Proposed Compliance Order

With respect to item(s) 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tennessee Gas Pipeline 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 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).

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.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1-2018-1001** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern 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 Tennessee Gas Pipeline Company (TGP) a Compliance Order incorporating the following remedial requirements to ensure the compliance of TGP with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to § 192.616, TGP shall determine required Public Official stakeholder group members for the 11 towns listed and provide necessary public awareness messages within 60 days of receipt of the Final Order.

2. TGP shall provide PHMSA record of the distribution of the messages in Number 1 above within 60 days of receipt of the Final Order.

3. In regard to Item Number 2 of the Notice pertaining to § 192.706, TGP shall revise its procedures for leak survey to address methods of survey for areas where vegetation survey is not an effective method of detecting leaks. TGP shall provide PHMSA the revised procedures for review within 60 days of receipt of the Final Order.

4. Within 60 days of PHMSA's acceptance of the revised procedures in Number 3 above, TGP must then apply those procedures to conduct effective leak surveys for all locations along jurisdictional pipeline segments operated by TGP where vegetation survey is not an effective method of detecting leaks.

5. Upon request, TGP shall provide records indicating the completion of the leakage surveys in Number 4 above.

6. It is requested (not mandated) that TGP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.