

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

OVERNIGHT EXPRESS DELIVERY

September 3, 2020

Mr. Richard Redmond
President
DTE Midstream Appalachia, LLC
1000 Noble Energy Drive
Canonsburg, PA 15317

CPF 1-2020-011-NOPV

Dear Mr. Redmond:

From May 20 – May 21 and on July 21, 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 DTE Midstream Appalachia, LLC's (DTE) records and pipeline facilities in the Oley, Pennsylvania area.

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.

DTE failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, DTE failed to train appropriate operating personnel to assure they are knowledgeable of its emergency procedures, and then verify the training’s effectiveness in accordance with § 192.615(b)(2)¹, as required by DTE’s emergency response procedures.

During the inspection, the PHMSA inspector reviewed DTE’s Procedure 615, *Emergency Plan*, dated March 2018, Section 14 – Training of Operations Personnel (Procedure). This section of DTE’s Procedure outlined processes for initial and refresher training for appropriate operating employees, verifying the training’s effectiveness, and associated recordkeeping requirements.

The Procedure, Section 14, stated in part:

(B) Employee Education: All appropriate operating employees must be trained to ensure that they are familiar with and knowledgeable of the Emergency Plan. Training will consist of the following:

(i) **Initial Training** covering the entire Emergency Plan material, with additional emphasis on those sections that directly pertain to the Technician’s responsibilities. This training will be provided to new and transfer-in employees and to contractors expected to participate in emergency response.

...

(C) Training Effectiveness

At the end of the training session, the Trainer will orally ask questions of participants pertaining to material covered for verification that the training was effective. An OQ Evaluator must observe the session and, based on the knowledge and responses of each individual, approve the qualification of each student for response to emergencies.

(D) Recordkeeping and Documentation

A record of employees who have attended the initial or refresher training session, the date of the session, the name of the Trainer, and the specific material covered in the session, must be prepared by the Trainer and witnessed by an OQ Evaluator. This roster must be retained for at least 5 years to document the training session...

The PHMSA inspector requested all operating personnel training records from initial construction of the pipeline in 2019 onward, in accordance with these requirements. DTE was not able to provide any records or information demonstrating the performance of the required initial trainings. In subsequent email communication, DTE stated, “...All we have are drills, not training sessions records. We do not have anything else to present at this time.”

¹ Section 192.615(b)(2) states:

- (b) Each operator shall:
 - (2) Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.

Therefore, DTE failed to train appropriate operating personnel to assure they are knowledgeable of its emergency procedures, and then verify the training's effectiveness, as required by Section 14 of DTE's 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 \$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. 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.

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 1, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to DTE Midstream Appalachia, LLC. 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 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 1-2020-011-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

CC: Patrick Raichel, Supervisor Codes & Regulatory, DTE Midstream (via email)

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

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to Emergency Plans, DTE Midstream Appalachia, LLC must train its emergency response personnel, as required by its Procedures – Procedure 615 Emergency Plan, Section 14 and § 192.615(b)(2) within 60 days of receipt of the Final Order. DTE must provide record to PHMSA of the completion of this training within 75 days of receipt of the Final Order.
- B. It is requested (not mandated) that DTE Midstream Appalachia, LLC 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.