



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 19, 2012

Mr. John Mollenkopf
Senior Vice President, Chief Operations Officer
MarkWest Ranger Pipeline Company, LLC
1515 Arapahoe Street, Tower 2, Suite 700
Denver, CO 80202-2126

CPF 2-2012-5007

Dear Mr. Mollenkopf:

On March 28-29, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected the MarkWest Ranger Pipeline Company, LLC (MarkWest) Public Awareness Program at the MarkWest office in Ashland, Kentucky. The Public Awareness Program covers MarkWest's Appalachian Liquids Pipeline System (ALPS); comprised of the 40.69-mile TranSandy Pipeline and the 36.03-mile Siloam Pipeline.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are as follows:

1. §195.440 Public awareness.

.... (b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

MarkWest did not assess the unique characteristics and attributes of its ALPS (i.e. pipeline and facilities) in its Public Awareness Program and baseline message brochures. The ALPS transports natural gas liquids, which fall under the definition of highly volatile liquids (HVL) in §195.2.

MarkWest's baseline message brochures sent (or otherwise delivered) to the affected public, excavators, emergency responders, and public officials for calendar years 2009, 2010, and 2011 did not identify the product transported as natural gas liquids or as an HVL, and did not describe its unique attributes and characteristics. Moreover, the baseline message brochures sent (or otherwise delivered) to the affected public, farmers, excavators, public officials, and emergency responders in 2011 incorrectly identified the product transported in the ALPS as natural gas; a product with different characteristics and attributes.

2. §195.440 Public awareness.

.... (i) The operator's program documentation and evaluation results must be available for periodic review by appropriate regulatory agencies.

MarkWest did not have program documentation, evaluation results, or other records to demonstrate that it had conducted annual audits or reviews of its Public Awareness Program for calendar years 2009, 2010, and 2011 in accordance with the American Petroleum Institute Recommended Practice 1162 (API RP 1162).

Section 8.3 - Measuring Program Implementation in API RP 1162 requires an operator to complete an annual audit or review of its Public Awareness Program to ascertain whether the program has been developed and implemented according to the guidelines in API RP 1162. MarkWest representatives at the inspection opined that MarkWest's Public Awareness Program revision log demonstrated the plan had been reviewed annually but they did not provide any records or other documentation to show that these reviews established that the Public Awareness Program had been developed and implemented according to the guidelines in API RP 1162 or that the program had been reviewed to insure compliance with the federal pipeline safety regulations in §195.440 and API RP 1162.

3. §195.440 Public awareness.

(a) 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 §195.3).

MarkWest did not perform an adequate program effectiveness evaluation of its Public Awareness Program in accordance with API RP 1162 Section 8.4 Measuring Program Effectiveness. The program effectiveness evaluation documentation presented to the PHMSA inspector at the inspection addressed calendar year 2010. It did not include the evaluation of the program from inception through June 20, 2010 or sooner. API RP 1162 Section 8.5, Table 8-1 and §195.440(h) established June 20, 2010, as the last day an operator could complete a Public Awareness Program effectiveness evaluation. Moreover, the data on the effectiveness evaluation of the "understandability of message content" prepared by MarkWest contractor Paradigm could not be validated.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$17,600 as follows:

| <u>Item number</u> | <u>PENALTY</u> |
|--------------------|----------------|
| 1 | \$17,600 |

Warning Items

With respect to items 2 and 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement actions or penalty assessment proceedings at this time. We advise you to promptly correct this item. Be advised that failure to do so may result in MarkWest Ranger Pipeline Company, LLC being subject to additional enforcement action.

Proposed Compliance Order


With respect to item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to MarkWest Ranger Pipeline Company, 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 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). 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 2-2012-5007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Wayne T. Lemoir
Director, Office of Pipeline Safety
PHMSA Southern Region

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 MarkWest Ranger Pipeline Company, LLC (MarkWest) a Compliance Order incorporating the following remedial requirements to ensure the compliance of MarkWest Ranger Pipeline Company, LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the failure of MarkWest to address the unique characteristics and attributes of its Appalachian Liquids Pipeline System (ALPS) in its Public Awareness Program and baseline message brochures, MarkWest must develop and distribute to the affected public, farmers, excavators, public officials, and emergency responders new baseline message material that adequately addresses the unique attributes and characteristics of the natural gas liquids (NGLs) being transported in the ALPS.
2. MarkWest must provide written documentation to the Director, PHMSA Southern Region, within 90 days following your receipt of the Final Order that Compliance Order that Item 1 has been completed.
3. It is requested (not mandated) that MarkWest maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Office of Pipeline Safety, PHMSA Southern Region. 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.