



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 29, 2018

Ms. Lynn J. Good  
Chairman, President and Chief Executive Officer  
Duke Energy Kentucky, Inc.  
KO Transmission Company  
139 East Fourth Street, Mail Drop EX403  
Cincinnati, OH, 45202

**CPF 2-2018-1004**

Dear Ms. Good:

Between July 31, 2017, and September 21, 2017, representatives of 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 KO Transmission Company (KO) records in its Cincinnati, Ohio and Erlanger, Kentucky offices, and inspected KO's facilities in Ohio and Kentucky. KO is a subsidiary of Duke Energy Kentucky, Inc.

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

**1. § 192.805 Qualification program.**

**Each operator shall have and follow a written qualification program. The program shall include provisions to:**

**(a) ...**

**(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;**

**(d) ...**

**(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed;**

**(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and**

**(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this section.**

**Notifications to PHMSA may be submitted by electronic mail**

**to *InformationResourcesManager@dot.gov*, or by mail to ATTN: Information Resources Manager DOT/PHMSA/OPS, East Building, 2nd Floor, E22-321, New Jersey Avenue SE., Washington, DC 20590.**

KO failed to comply with the regulation because its written qualification program did not adequately include the provisions of §§ 192.805(c), 192.805(g), 192.805(h), and 192.805(i), as follows:

- § 192.805(c): KO's Operator Qualification (OQ) Plan, titled "Natural Gas Operator Qualification Plan," revision date February 11, 2016, copied the language of the regulation regarding allowance of non-qualified individuals to perform a covered task if directed and observed by an individual that is qualified. The plan, however, failed to provide details directly applying the regulation to its system. For example, KO's OQ Plan was silent on whether KO had developed a span of control ratio used to manage direct observation and supervision which would include provisions for verbal communications, for applicable covered tasks.
- § 192.805(g): KO's OQ Plan requires a 5 year covered task re-qualification cycle "on the majority of covered tasks," and lists criteria to be applied to each covered task to determine if a more frequent qualification interval is appropriate. KO personnel were unable to provide documentation showing how and if the criteria had been applied to establish the re-qualification intervals. It is noted that KO personnel conveyed that KO normally re-evaluates individuals on a 3 year interval.
- § 192.805(h): KO's OQ Plan did not address the requirement to, after December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.
- § 192.805(i): KO's OQ Plan did not require KO to notify the Administrator or a state agency if KO significantly modifies the program after the Administrator or state agency has verified that the program complies with § 192.805.

2. **§ 192.809 General.**

(a) ...

**(d) After October 28, 2002, work performance history may not be used as a sole evaluation method.**

**(e) After December 16, 2004, observation of on-the-job performance may not be used as the sole method of evaluation.**

KO failed to comply with the requirements of § 192.809 as follows:

- § 192.809(d): KO's written OQ Plan did not dis-allow the use, as sole evaluation methods, of work performance history reviews after October 28, 2002.
- § 192.809(e): KO's written OQ Plan did not dis-allow the use, as a sole evaluation method, of observation of on-the-job performance after December 16, 2004.

3. **§ 192.945 What methods must an operator use to measure program effectiveness?**

**(a) General. An operator must include in its integrity management program methods to measure whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas. These measures must include the four overall performance measures specified in ASME/ANSI B31.8S (incorporated by reference, see §192.7 of this part), section 9.4, and the specific measures for each identified threat specified in ASME/ANSI B31.8S, Appendix A. An operator must submit the four overall performance measures as part of the annual report required by §191.17 of this subchapter.**

KO failed to comply with the regulation because its methods to measure whether the program is effective in assessing and evaluating the integrity of each covered pipeline segment and in protecting the high consequence areas (HCAs) were incorrect.

Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 2, which are grouped under the following four categories:

- (1) Time dependent threats such as internal corrosion, external corrosion, and stress corrosion cracking;
- (2) Static or resident threats, such as fabrication or construction defects;
- (3) Time independent threats such as third party damage and outside force damage; and
- (4) Human error.

Specifically, KO failed to measure its program effectiveness in its integrity management (IM) program regarding manufacturing and construction defects as required by ASME B31.8S, section 2.2. KO's IM program incorrectly defines the method for evaluating manufacturing and construction defects. The KO report, titled "2015-2016 Performance Measures Report," lists the following question for Manufacturing Defects and for Construction defects:

"Has pressure exceeded MAOP for preceding 5 year pre-TIMP highest pressure."

Per § 192.917(e)(3), *Manufacturing and Construction Defects*, the correct reference would be whether the operating pressure on the covered segment had increased over the

maximum operating pressure experienced during the five years preceding identification of the HCA.

4. **§ 191.17 Transmission systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Annual report.**

**(a) Transmission or Gathering. Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1. This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 reporting year the report must be submitted by June 15, 2011.**

KO failed to comply with the regulation because it did not submit the following data in its annual reports:

- KO did not report data related to the 0.425 miles of transmission line crossing the Ohio River (0.298 miles in Kentucky and 0.127 miles in Ohio). KO personnel conveyed that the KO considers the segment to be distribution, and not transmission, because the line operates at a hoop stress of less than 20-percent of the pipe's specified minimum yield strength (SMYS).

Section 192.3 defines a transmission line as:

Transmission line means a pipeline, other than a gathering line, that:

- (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center;
- (2) operates at a hoop stress of 20 percent or more of SMYS; or
- (3) transports gas within a storage field.

The segment meets the definition of a *transmission line* in § 192.3 because it is not a gathering line, and transports gas which ultimately comes from upstream gas gathering lines and/or storage field, to distribution center(s). Likewise, KO's FERC Gas Tariff and the tariff-referenced system map convey and illustrate that KO provides transportation services, via its Line AM04, to delivery point(s) in Ohio.

- KO did not report data related to 0.17 HCA miles (Kentucky side of the Ohio River) traversed by the segment of its Line AM-04 transmission line segment which operates under 20-percent SMYS, as required in Part B of PHMSA Form F7100.2-1, referenced in § 191.17.
- KO integrity assessed (via pressure-test) approximately 8.5 miles of its Line AM00A in 2016, but failed to report the mileage in Part F its 2016 Annual Report, submitted using PHMSA Form F7100.2-1, referenced in § 191.17.
- KO did not report the addition of approximately 8.5 miles of its Line AM00A as "Internal Inspection ABLE" pipe in Part R of submitted Annual Reports, submitted using PHMSA Form F7100.2-1, referenced in § 191.17.

5. **§ 191.29 National Pipeline Mapping System.**

**(a) Each operator of a gas transmission pipeline or liquefied natural gas facility must provide the following geospatial data to PHMSA for that pipeline or facility:**

**(1) Geospatial data, attributes, metadata and transmittal letter appropriate for use in the National Pipeline Mapping System. Acceptable formats and additional information are specified in the NPMS Operator Standards Manual available at [www.npms.phmsa.dot.gov](http://www.npms.phmsa.dot.gov) or by contacting the PHMSA Geographic Information Systems Manager at (202) 366-4595.**

KO failed to comply with the regulation because it did not provide to PHMSA certain geospatial data required in § 191.29(a)(1). The segment of KO's Line AM-04B that crosses the Ohio River from Kentucky into Ohio was not included in mapping submitted to PHMSA's National Pipeline Mapping System (NPMS). KO personnel conveyed that, because the segment at under 20 percent of pipe SMYS, KO considers the segment to be distribution and is not required to be submitted to the NPMS. PHMSA has determined the segment to be transmission for the reasons stated in Item 4 above.

6. **§ 192.465 External corrosion control: Monitoring.**

**(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.**

KO failed to comply with the regulation because it did not test, at least once each calendar year, but with intervals not exceeding 15 months, to determine whether its cathodic protection (CP) meets the requirements of § 192.463 at several test stations.

The table below summarizes seven test stations where the CP surveys exceeded the above-referenced required frequency. The exceedances ranged from 70 days to 120 days.

The explanation given by KO's corrosion technician for exceeding the frequency was that the test stations were "no locate" stations, meaning that the stations could not be located and as such, the time period (once each calendar year, but with intervals not exceeding 15 months) re-starts at the "no locate" date. Being unable to locate a test station does not excuse the operator from its obligation to comply with pipeline safety regulations. Likewise, KO personnel were not following KO's written procedures, which do not authorize this practice.

Line ID	Test Station ID	Date of Test Station Read	"On" Reading	"Off" Reading	Comments	Per Technician	Exceedance (days beyond 15-months)
AM09	36830	4/3/2015	-1.52	-1.32	FOUND AT LOCATION		
AM09	36830	4/12/2016	---	---		"no locate"	
AM09	36830	10/3/2016	-1.18	-1.08	FOUND AT LOCATION		92
AM00A	32408	4/27/2015	-1.38	-1.25	FOUND AT LOCATION		
AM00A	32408	4/13/2016	---	---		"no locate"	
AM00A	32408	10/27/2016	-1.35	-1.21	FOUND AT LOCATION		92
AM04A	36858	4/8/2015	-1.14	-1.11	WATER GONE		
AM04A	36858	4/12/2016	---	---		"no locate"	
AM04A	36858	10/3/2016	-1.09	-0.92			87
AM00A	32340	4/8/2015	-1.33	-1.14	FOUND AT LOCATION		
AM00A	32340	4/14/2016	---	---		"no locate"	
AM00A	32340	9/16/2016	-1.18	-0.99	FOUND AT LOCATION		70
AM04B	32322	4/3/2015	-1.54	-1.13	FOUND AT LOCATION		
AM04B	32322	4/7/2016	---	---		"no locate"	
AM04B	32322	10/17/2016	-0.50		BEST READ		
AM04B	32322	10/27/2016	-1.15	-1.07	FOUND AT LOCATION		116
AM04B	32327	3/18/2015	-1.52	-1.08			
AM04B	32327	4/8/2016	---	---		"no locate"	
AM04B	32327	10/17/2016	-1.62	-1.43			121
AM09	31933	4/3/2015	-1.49	-1.31	FOUND AT LOCATION		
AM09	31933	4/12/2016	---	---		"no locate"	
AM09	31933	10/3/2016	-1.15	-1.09	FOUND AT LOCATION		92

7. **§ 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.

KO failed to comply with the requirements of § 192.605(a) as follows:

- KO did not provide evidence that it had conducted annual reviews in years 2014 and 2016, of its written operations and maintenance (O&M) procedures, included in its O&M manual, titled “Duke Energy Natural Gas Operations Plan.” KO provided the inspectors with a print out from a program used to track annual review data called “Open Pages, however,” this document lists due dates for the required reviews, not the actual review dates for years 2014 and 2016. Similarly, for reviews of the Plan for Emergencies and Natural Disasters, the “Open Pages” document, although listing review due dates, did not provide the actual review dates for years 2014, 2015, and 2016. KO only provided cover pages of the respective plans that indicate the year.
- KO did not adequately complete its Job Control Forms (JCF), as required by its O&M program. Specifics are as follows:
  - Line AM00A Line Segment Installation near Chapman Lane, August 22, 2016: the JCF was incomplete in that the description of the work performed, including results of the pipe inspections (exposed pipe, coating, etc.) was not recorded.
  - Line AM09 Creek Crossing Replacement, October 27, 2016: KO personnel did not complete the “Reported By” section of two JCFs, both dated October 27, 2016, and thus did not identify on the form the person who inspected the existing pipe.

8. **§ 192.615 Emergency plans.**

(a) ...

(b) **Each operator shall:**

(1) ...

(2) **Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.**

KO failed to comply with the regulation because it did not provide documentation demonstrating that emergency response personnel are knowledgeable of the emergency procedures and that KO had verified its training effectiveness.

9. **§ 192.709 Transmission lines: Record keeping.**

**Each operator shall maintain the following records for transmission lines for the periods specified:**

(a) ...

(c) **A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.**

KO failed to comply with § 192.709(c) as follows:

- KO personnel were unable to provide a record of the most recent inspection for evidence of atmospheric corrosion of above-ground facilities at KO’s Alexandria station. PHMSA inspectors observed significant coating and paint failure at the facility.

- A segment of Line AM09 was replaced in 2016 at a creek crossing. KO personnel, however, were unable to provide records documenting the inspection of the internal surface of the replaced segment for evidence of corrosion in accordance with § 192.475(b).

10. § 192.907 What must an operator do to implement this subpart?

(a) **General.** No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

KO failed to comply with the regulation because it did not follow its written IM program as detailed below.

- KO's IM program requires that a Performance Measures Report be completed annually. The above-referenced report for Calendar Year (CY) 2016 did not accurately convey certain metric data, as indicated below.

	CY2016 Reported	CY2016 Correct
Pressure test miles assessed	0	8.5 (Line AM00A)
Increase in % of piggable pipe	0%	TBD based on corrected total miles
Increase in miles of piggable pipe	0	8.5 (Line AM00A)

Furthermore, as relates to manufacturing and construction defects, the above-referenced form includes the following question:

“Has pressure exceeded MAOP for preceding 5 year pre-TIMP highest pressure”

For CYs 2015 and 2016, this question was unanswered.

- KO did not follow its Section 6 of Procedure GD70.06-32, titled "Determination of Stable Threats," because it did not perform the required annual review in CY 2016. Section 6 required annual reviews of pipeline segments in HCAs with stable Manufacturing/Construction threats for specified changes that would re-classify the threat as unstable. KO conveyed that the 2016 review was not done.

11. § 192.925 What are the requirements for using External Corrosion Direct Assessment (ECDA)?

(a) ...

(b) **General requirements.** An operator that uses direct assessment to assess the threat of external corrosion must follow the requirements in this section, in ASME/ANSI B31.8S (incorporated by reference, see § 192.7), section 6.4, and in NACE SP0502 (incorporated by reference, see § 192.7). An operator must develop

**and implement a direct assessment plan that has procedures addressing pre-assessment, indirect inspection, direct examination, and post assessment. If the ECDA detects pipeline coating damage, the operator must also integrate the data from the ECDA with other information from the data integration (§ 192.917(b)) to evaluate the covered segment for the threat of third party damage and to address the threat as required by § 192.917(e)(1).**

KO failed to comply with the regulation because it did not follow the requirements in in NACE SP0502 (incorporated by reference, see § 192.7), as required by § 192.925(b).

- KO records documenting a 2012 Casing External Corrosion Direct Assessment (ECDA) of casings on its Line AM00 indicate that “the casings are believed to be bare and not filled with a dielectric material.” Furthermore, KO’s form, titled “Cased Piping Data Element Sheet,” indicated that all AM00 casings were bare. KO personnel were unable to provide documentation or validation of the casings’ assumed “bare” status, nor were they able to confirm whether the casings were dielectrically filled. Table 1 of NACE SP0502 requires detailed information about casing materials and construction techniques to be determined during the Preassessment Step.
- KO records indicate that during the indirect examination phase of a 2016 ECDA of Line AM04A, KO switched from direct current voltage gradient (DCVG) to alternating current voltage shift (ACVG) in HCA Segment 10 because it was not achieving a sufficient pipe-to-soil (p/s) potential shift to use DCVG within that segment. Per Section 4.3.4.1 of NACE SP0502-2010, cathodic protection current demand is a factor to be used in establishing and validating ECDA regions. KO was unable to provide documentation of any consideration given the site-specific cathodic protection demand, and resulting p/s potentials. Furthermore, KO was unable to justify its decision to not reclassify this area as an additional region.

**12. § 192.225 Welding procedures.**

**(a) Welding must be performed by a qualified welder or welding operator in accordance with welding procedures qualified under section 5, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see § 192.7), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, see § 192.7) to produce welds meeting the requirements of this subpart. The quality of the test welds used to qualify welding procedures must be determined by destructive testing in accordance with the applicable welding standard(s).**

KO failed to comply with the regulation because it did not ensure that welders were tested in accordance with KO’s qualified welding procedures.

PHMSA’s review of records documenting a 2016 pipe replacement project along KO’s Line AM09, as well as a 2017 pipe replacement project along Line AM04A, revealed that welders were not tested in accordance with KO’s governing procedures, as detailed below:

- Two welders performed welds on KO’s 2016 Line AM09 replacement project, as well as the 2017 Line AM04a replacement project, located from Station 4+74 to Station 5+00. PHMSA’s review of KO’s documentation of the projects revealed that

both welders tested and qualified on Grade X-42 pipe, with 0.250-inch wall thickness. Paragraph 2, Section B1 of KO Procedure GD55-505-1 requires welders to be tested on Grade X-52 pipe, with a 0.188 wall thickness.

- A welder performing welds on KO's 2017 KO Line AM04A Bracken Station Line Take-off Construction project. PHMSA's review of KO's documentation of the project revealed that the welder tested and qualified on Grade X-42 pipe, with 0.250-inch wall thickness. Paragraph 2, Section B1 of KO Procedure GD55-505-1 requires welders to be tested on Grade X-52 pipe, with a 0.188 wall thickness.

13. **§ 192.947 What records must an operator keep?**

**An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.**

**(a) ...**

**(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements;**

KO failed to comply with the regulation because it did not maintain documents that adequately supported determinations or changes made, as detailed below.

- KO's list of HCA segments for its Line AM04 in 2011 and 2013 included HCA30, with a length of 851 feet and 855 feet, respectively. KO did not include HCA30 in its list of HCA segments for the referenced line in 2012. KO personnel were unable to provide any documentation or justification for why HCA30 was not listed in 2012.
- At the time of PHMSA's inspection, and per KO's cased pipe assessment schedule, dated September 15, 2017, the Grandview Road cased pipe segment, located in HCA Segment #20 on Line AM04B, had not been baseline-assessed. Records indicate that the pipe in HCA Segment #20 was installed in 1948, and was identified as an HCA in 2004. Duke did not have documentation explaining the reasons why the segment had not been base-line assessed.

14. **§ 192.921 How is the baseline assessment to be conducted?**

**(a) Assessment methods. An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods depending on the threats to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (See §192.917).**

KO failed to comply with the regulation because it did not conduct a baseline assessment or assess the integrity of the line pipe in each covered segment by applying one of more of the methods listed in § 192.921:

- KO's records indicate that line segment HCA30 segment, which was identified as an HCA, includes a cased road crossing that has never been the subject of an integrity assessment. KO personnel were unable to provide any documentation or justification for why this segment had not been baseline-assessed.
- KO records indicate that a segment of its Line AM04B was identified as being within an HCA in 2004. This HCA segment, identified as HCA20 in KO records, includes a cased road crossing at Grandview Road. PHMSA's review of KO's cased pipe assessment schedule, dated September 15, 2017, indicates the Grandview Road cased crossing had not yet been the subject of a base-line assessment. KO personnel were unable to provide any documentation or justification for why the cased pipe segment at Grandview Road had not been baseline-assessed.

**15. § 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?**

**(a) Threat identification.** An operator must identify and evaluate all potential threats to each covered pipeline segment. Potential threats that an operator must consider include, but are not limited to, the threats listed in ASME/ANSI B31.8S (incorporated by reference, *see* § 192.7), section 2, which are grouped under the following four categories:

- (1) Time dependent threats such as internal corrosion, external corrosion, and stress corrosion cracking;
- (2) Static or resident threats, such as fabrication or construction defects;
- (3) Time independent threats such as third party damage and outside force damage; and
- (4) Human error.

KO failed to comply with the regulation because it did not identify and evaluate all potential threats to each covered pipeline segment, as indicated below.

KO did not determine which KO segments were considered to have the unstable Manufacturing and Construction (M&C) threat until years 2015 and 2016.

KO issued its current procedure, titled "Determination of Stable Threats GD70.06-032," on October 1, 2015, which required determination of unstable M&C threats, including those presented by low frequency electric resistance welded (LFERW) pipe. KO IM procedures in place prior to October 1, 2015 did not require KO to integrity-assess low frequency electric resistance welded (LFERW) pipe (reference Sec 6.2.4 of KO's IM manual, titled "Natural Gas TIMP," revision date February 19, 2014).

**16. § 192.709 Transmission lines: Record keeping.**

**Each operator shall maintain the following records for transmission lines for the periods specified:**

**(a) ...**

**(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.**

KO failed to comply with the regulation because it did not maintain adequate record of each pipeline right-of-way (ROW) patrol in CYs 2016 and 2017 as follows:

- KO records documenting ROW patrols for CYs 2016 and 2017 indicated 49.65 miles were patrolled, whereas 51.7 miles were reported by KO on annual reports for the same years;
- KO records documenting ROW patrols for CYs 2016 and 2017 did not indicate the method of patrol;
- KO records documenting ROW patrols for CYs 2016 and 2017 did not indicate or confirm that highway and railroad crossings were patrolled in accordance with § 192.705(b); and
- KO records documenting ROW patrols for CYs 2016 and 2017 did not adequately describe the area of patrol on the north end of Line AM04B (near the south side of the Ohio River) – the ROW portion was identified only as “D.” Consequently, PHMSA inspectors were unable to confirm that the entirety of Line AM04B had been patrolled, as required by § 192.705(a);

#### 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 violations and has recommended that you be preliminarily assessed a civil penalty of \$94,900 as follows:

<u>Item number</u>	<u>PENALTY</u>
6	\$42,400
14	\$52,500

#### Warning Items

With respect to items 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15 and 16, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

#### Proposed Compliance Order

With respect to Items 1 and 2, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to KO Transmission 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.

In your correspondence on this matter, please refer to **CPF 2-2018-1004** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



James A. Urisko  
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 KO Transmission Company (KO) a Compliance Order incorporating the following remedial requirements to ensure the compliance of KO with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to KO's failure to include certain provisions required of Part 192 in its written qualification program, KO must revise its written operator qualification program (OQ program) as follows:
  - a) For each covered task that KO allows "not qualified" individuals to perform, develop a justifiable "span of control ratio" for the purpose of assuring that such individuals will be directed and observed by a qualified individual when performing the task;
  - b) For each covered task, determine an evaluation interval, based on a written justification, at which evaluation of individuals' qualifications are needed;
  - c) Develop and/or identify a written training program that meets the requirements of §192.805(h). Include, or make reference to, the training program in the written OQ program, and include cross references between each covered task and the applicable required training; and,
  - d) Include the notification requirement as specified in §192.805(i).
2. In regard to Item Number 2 of the Notice, KO must revise its written program to include the program restrictions specified in §192.809(d) and §192.809(e).
3. Within 60 days of receipt of the Final Order, KO must complete the requirements of Items 1 and 2 above, and provide written documentation confirming completion to the Director, Office of Pipeline Safety, PHMSA Southern Region.
4. It is requested (not mandated) that KO 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.