

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 19, 2013

Mr. Dudley Tarlton
Vice President, ESOH
TransMontaigne Operating Company, LP
1670 Broadway, Room 3100
Denver, Colorado 80202

CPF 3-2013-5025

Dear Mr. Tarlton:

On October 1-5, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Razorback pipeline system facilities in Missouri and Arkansas, and records in Rogers, Arkansas.

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

- 1. §195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (13) Periodically reviewing the work done by operator to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

TransMontaigne did not perform periodic reviews to determine the effectiveness of its procedures used in normal operation and maintenance. During the PHMSA inspection TransMontaigne provided documentation of personnel performance reviews as its fulfillment of the requirement of §195.402(c)(13). The documentation does not demonstrate that any review or determinations were made as to the effectiveness of operations and maintenance procedures based on work performed. The documentation only showed that personnel were evaluated for their individual performance.

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 TransMontaigne Operating Company, LP. 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 3-2013-5025** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Linda Daugherty
Director, Central 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 TransMontaigne Operating Company, LP a Compliance Order incorporating the following remedial requirements to ensure the compliance of TransMontaigne with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the review of work performed to determine effectiveness of procedures, TransMontaigne must:
 - i. Within 30 days of issuance of the Final Order make modifications to its written processes and applicable forms to ensure proper review of work performed to determine effectiveness of operation and maintenance procedures. Modified processes must also include a description of the documentation necessary to demonstrate compliance with §195.402(c)(13). Submit the modified processes and applicable forms to the Director, Central Region for acceptance.
 - ii. Within 90 days of the Director's acceptance per Item 1(i) above, review all operations and maintenance work performed on its Razorback pipeline in the 180 days prior to the date of a Final Order to determine the effectiveness of its manual of written procedures required by §195.402(a), as well as any applicable standards, specifications, or best practices referenced in the manual. Deficiencies and necessary improvements identified as a result of the review shall be corrected and documentation of these corrective actions furnished to the Director, Central Region within 30 days of completing the review.
2. It is requested (not mandated) that TransMontaigne maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Linda Daugherty, Director, Central 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.