



U.S. Department
of Transportation

**Pipeline and Hazardous Materials
Safety Administration**

901 Locust Street, Suite 462
Kansas City, Missouri 64106-2641

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 28, 2015

Mr. Robert Kitchell
Vice President-Operations
Columbia Gas Transmission, LLC
1700 McCorkle Avenue, S.E.
Charleston, West Virginia 25314

CPF 3-2015-1007

Dear Mr. Kitchell:

On various dates between January and August of 2014, representatives of the Ohio Public Utilities Commission acting as interstate agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your records and facilities throughout the State of Ohio.

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:

- 1. §191.17 Transmission systems, gathering systems, and liquefied natural gas 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.**

Columbia Gas Transmission (CGT) did not report on the 2013 annual report two newly constructed pipelines that were in operation in 2013.

Lines R443 and A120 are two new plastic pipelines that were completed and operational in 2013. Review of the 2013 annual report found that neither of the two pipelines was reported.

2. §192.465 External corrosion control: Monitoring.

(d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

In the Cambridge and Meigs operating area, CGT did not promptly remediate two deficient cathodic protection readings.

Review of the cathodic protection records identified two low potential readings on Line V148 for 2012 and 2013. The readings in the records are as follows:

<u>Test Point</u>	<u>Date</u>	<u>Reading</u>
Asset 874156	6/26/2012	-0.740v
	3/26/2013	-0.810v
Asset 874147	6/26/2012	-0.800v
	3/26/2013	-0.830v

No other records were produced to show that any remedial actions were taken from 3/26/2013 until the end of the 2013 calendar year.

3. §192.479 Atmospheric corrosion control – General

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

CGT did not clean and coat the soil to air interface at multiple exposures on Lines V138, H107, and H87. During the records review, there were multiple exposures that were scheduled for remediation on Line H107 and H87, but did not occur by the due date. Subsequent field visits to the exposures on both lines verified that no action had been taken at the soil to air interface to clean and coat the exposed pipelines.

The following exposures with the soil/air interface issues noted during the field review are as follows:

- 1) Asset 1369681 for Line V138 (Identified by CGT on March 13, 2006)
- 2) Asset 1370688 for Line V138 (Identified by CGT on March 27, 2007)

During the records review, the following exposures for line H107 did not receive any remedial actions to address the soil to air interface. All of these exposures except Assets 1566279 and 1566280 should have been addressed by the time of this field inspection. Assets 1566279 and 1566280 had a scheduled completion date of July 1, 2014, which was less than a month from the time of the field review. The subsequent field review of the field exposures on Line H107 verified that no action had been taken:

- 1) Asset 906165 (Identified by CGT on April 27, 2012)*
 - 2) Asset 906166 (Unknown)*
 - 3) Asset 906167 (Identified by CGT on April 27, 2012)*
 - 4) Asset 906168 (Identified by CGT on April 27, 2012)*
 - 5) Asset 906169 (Identified by CGT on April 27, 2012)*
 - 6) Asset 906170 (Identified by CGT on April 27, 2012)*
 - 7) Asset 906171 (Identified by CGT on April 27, 2012)*
 - 8) Asset 906172 (Identified by CGT on April 27, 2012)*
 - 9) Asset 906173 (Identified by CGT on April 27, 2012)*
 - 10) Asset 1548046 (Identified by CGT on May 1, 2012)
 - 11) Asset 1548047 (Identified by CGT on May 1, 2012)
 - 12) Asset 1566279 (Identified by CGT on July 2, 2013)*
 - 13) Asset 1566280 (Identified by CGT on July 2, 2013)*
 - 14) Asset 1566281 (Identified by CGT on July 2, 2013)
- *Verified in the field that no remedial action was taken.*

The records review found that the following exposures on Line H87 had not received any remedial actions at the soil to air interface:

- 1) Asset 906159 (Identified by CGT on April 10, 2012)
- 2) Asset 906160 (Identified by CGT on April 10, 2012)
- 3) Asset 1547598 (Identified by CGT on April 11, 2012)
- 4) Asset 1559935 (Identified by CGT on January 30, 2013)
- 5) Asset 1559937 (Identified by CGT on January 30, 2013)
- 6) Asset 1559938 (Identified by CGT on January 30, 2013)

After the inspection, CGT personnel indicated that a project scope to replace 8,612 feet of Line H107 and 2,600 feet of Line H87 was developed. These replacements would address these exposures. However, CGT could not indicate when those projects would occur. This probable violation is a repeat violation of CPF 3-2010-1005, Item #2.

4. §192.619 Maximum allowable operating pressure - Steel or plastic pipelines

- (a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:**

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part. However, for steel pipe in pipelines being converted under §192.14 or updated under subpart K of this part, if any variable necessary to determine the design pressure under the design formula (§192.105) is unknown, one of the following pressures is to be used as design pressure

CGT failed to have their maximum allowable operating pressure (MAOP) established according to the design pressure of the weakest element in their segment.

During the records review of the regulator inspections at Nicodemus regulator station, it was noted that the Fisher 627M regulators had a ¼" orifice in them. Review of the manufacturer specifications found that the ¼" orifice had a maximum inlet pressure of 750 psig. The MAOP of the pipeline that feeds this station is 800 psig. As a result, CGT personnel changed out the orifice to maintain the 800 psig MAOP and conducted a review of other stations to ensure that there were no other inappropriately sized orifices.

5. §192.707 Line markers for mains and transmission lines.

(c) Pipelines above ground. Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

CGT did not have line markers at two locations where their pipeline was aboveground and accessible to the public.

During the field review of Line V-138, two aboveground exposures were observed. The exposures are not located in a restricted area and are accessible by the public. Neither of the exposures had any line markers near them. The exposures noted are as follows:

For line V -138:

- 1) Asset 1369681
- 2) Asset 1370688

6. §192.905 How does an operator identify a high consequence area?

(b)(1) Identified sites. An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.

CGT did not properly identify two high consequence areas (HCA) on Line B108 from Marten Park in Lancaster, Ohio, to the State Route 188 regulator station.

During the field evaluation of Line B108 in the Treat operating area, two identified sites were noted on the line. The two sites noted are the Anchor Hocking Glass Company and the Martins Park Ball Field. Line B108 is an 8" diameter line with an MAOP of 125 psig. The potential impact radius (PIR) calculates to approximately 120 feet. Both these sites fall within that PIR and were present before 2004.

Originally, CGT added the Anchor Hocking building as an HCA but it was eliminated in 2006 because they determined that there were not twenty people within the PIR where the radius intersected the plant. However, this facility should have stayed on the HCA list because if any portion of a building containing twenty people for the time periods specified in the rule is within the PIR, that building should be treated as an identified site. CGT did add this site to the HCA list in 2013.

CGT could not provide an explanation of why the Martins Park Ball Field was not put on the HCA list prior to 2013. In 2013, CGT added this site to the HCA list. However, it was subsequently removed in 2015 because CGT's research on February 26, 2015, found that the park only met the criteria for the number of people for thirty-six days per year. However, when our inspector talked to the manager of Martins Park Ball Field on March 3, 2015, he indicated that they have four ball diamonds with about thirty kids on each diamond, not including the crowd. He also indicated that this occurred more than fifty days annually, since games are played on the fields Monday through Saturday from May to August. It appears that this site should stay on the HCA list.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 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 \$168,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$33,300
3	\$83,600
6	\$51,400

Warning Items

With respect to items one (1) and five (5), 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 item(s). Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items three (3) and five (5) pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Columbia Gas Transmission, 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. 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). If you do not respond within thirty (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 3-2015-1007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Allan C. Beshore
Director, Central Region, OPS
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 Columbia Gas Transmission, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of Columbia Gas Transmission, LLC with the pipeline safety regulations:

1. In regard to Item Number 3 of the Notice pertaining to cleaning and coating the soil to interface areas of the exposures on Lines V138, H107, and H87, CGT must provide and implement a plan to address the two exposures identified on Line V138 in this Notice, and any other exposures on this line. Regarding Lines H107 and H87, CGT must submit a schedule of when ProTool 15740 (Replacement Scope for H107) and ProTool 17252 (Replacement Scope for H87) will be implemented and completed.
2. In regard to Item Number 5 of the Notice pertaining to having no line markers on the exposures, CGT must identify all exposures in the Meigs and Cambridge operating areas and install appropriate line markers at these locations as well as the two sites identified in this Notice.
3. In regards to Item number 1 of the Proposed Compliance Order (PCO), CGT must provide a copy of the plan for remedial action on the exposures for Line V138 within 30 days of the receipt of the Final Order and complete all work described in the plans within one year from the receipt of the Final Order. In regards to H107 and H87, the replacement schedule must be submitted within 30 days of the receipt of the Final Order. Completion of the replacements must be done no later than one year from the receipt of the Final Order. In regards to Item number 2 of the PCO, CGT must complete the identification and installation of the line markers within 180 days from the receipt of the Final Order.
4. It is requested (not mandated) that Columbia Gas Transmission, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan C. Beshore, Director, Central Region OPS, 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.

Response Options for Pipeline Operators in Enforcement Proceedings

The provisions of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.243) govern response options to enforcement actions initiated by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA). You are advised to consult Subpart B for further information regarding your rights and responsibilities in such proceedings.

Be advised that all material submitted by a respondent in response to an 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).

I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

a. When the Notice contains a PROPOSED CIVIL PENALTY* --

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case (subject to any outstanding compliance order). Payment terms are outlined below;
2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order. PHMSA will consider your submission in deciding whether to reduce or eliminate the penalty amount proposed in the Notice. Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum civil penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based;

3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a **PROPOSED COMPLIANCE ORDER*** --

1. If you are not contesting the proposed compliance order and the alleged violations associated with it, notify the Regional Director that you intend to take the actions in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a **WARNING ITEM** --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice and/or submit copies of your amended procedures;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;
- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

III. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the regulatory requirement or factual basis for the allegations, to the proposed compliance order, or to the proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$25,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV. **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V. **Case File**

Case file documents are available to the respondent of enforcement proceedings per 49 C.F.R. § 190.209. Documents in the case file are provided upon request, if prepared.

VI. **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why you believe the documents, or portions of a document, qualify for confidential treatment under 5 U.S.C. 552(b). If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VII. **The Rights of Small Entities to Enforcement Fairness and Policy Against Retaliation**

The Department of Transportation has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights. Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact the PHMSA Office of Chief Counsel. You also have the right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of this agency.

The Department of Transportation strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

VIII. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faq.html.

IX. **Payment Instructions**

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AMK-325) P.O. Box 269039
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> 69140001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

Block #7 - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "69140001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

NOTE: A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8845 at the time you send the wire transfer.