

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 13, 2019

Mr. Paul Miller  
Executive-Vice President/President, Liquids Pipelines  
TC Oil Operations, Inc.  
450 1<sup>st</sup> Street, S.W.  
Calgary, Alberta, Canada  
T2P 5H1

**CPF 3-2019-5008**

Dear Mr. Miller:

From January 8, 2018 to April 27, 2018, a representative 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 the facilities and records for your Keystone Pipeline which extends from the Canadian border to Patoka, Illinois.

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

**§195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?**

**(a) ...**

**(b) Coating material must be suitable for the prevention of atmospheric corrosion.**

TC Oil Operations, Inc. (TC Oil) failed to provide a coating material suitable for the prevention of atmospheric corrosion. The operator used Fusion Bonded Epoxy (FBE) as a coating on numerous locations on the pipeline at and above the air-soil interface.

In failing to provide a suitable coating material, TC Oil failed to follow its own procedures in its Operations and Maintenance manual “Section 195.581 Atmospheric Corrosion Control 4.3” which states “All piping at the soil to air interface is coated and protected in accordance with referenced specifications and resistant to soil stress and ultraviolet light exposure”. TC Oil also failed to maintain a proper coating at the air-soil interface that extended below and above grade, in accordance with its procedures.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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 TC Oil Operations, Inc. 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 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 the 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 3-2019-5008** 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

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

## **PROPOSED COMPLIANCE ORDER**

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to TC Oil Operations, Inc. a Compliance Order incorporating the following remedial requirements to ensure the compliance of TC Oil Operations, Inc. with the pipeline safety regulations:

1. In respect to Item Number 1 of the Notice, TC Oil Operations, Inc. shall correct deficiencies in coating material so that they are suitable for prevention of atmospheric corrosion. TC Oil Operations, Inc. shall provide a record of the location of piping with insufficient coating and the date an appropriate coating was applied.
2. TC Oil Operations, Inc. shall complete Item 1 within six (6) months of the date of the final order.
3. It is requested (not mandated) that TC Oil Operations, Inc. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan Beshore, 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.