

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 22, 2011

Mr. Richard D. Hatchett
West Texas Gas, Inc
7517 Canyon Drive
Amarillo, TX 79110

CPF 4-2011-1007

Dear Mr. Hatchett:

During the week of August 30, 2010, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your integrity management program in Amarillo TX.

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 item probable violation is:

1. **§192.935 What additional preventive and mitigative measures must an operator take?**
 - (a) **General requirements. An operator must take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment. (See § 192.917) An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by**

reference, see § 192.7), section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing Automatic Shut-off Valves or Remote Control Valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs.

West Texas Gas (WTG) failed to perform the necessary risk analysis and identification of additional preventive and mitigative (P&M) measures. WTG's program spells out what the steps and actions it will take related to P&M measures in article 10 "Identification of Preventative and Mitigation Measures" of their IM program. One step in the process requires the Director of Integrity Management to utilize Appendix E "Preventative and Mitigative Measures Evaluation Form" to document the decision process and implementation schedule for selected P&M measures. During the inspection WTG was asked to present their analysis and identify measures that were implemented. WTG did not present any completed Appendix E forms. WTG could not identify any measures they had implemented nor was a documented analysis presented. Retention of the analysis is consistent with the record keeping requirement of §192.947 and should have been made available during the inspection.

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(s) and has recommended that you be preliminarily assessed a civil penalty of \$ 27,500.

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 West Texas Gas, 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. 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 4-2011-1007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley
Director, Southwest 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 West Texas Gas, Inc a Compliance Order incorporating the following remedial requirements to ensure the compliance of West Texas Gas, Inc with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to additional preventive and mitigative measures that have not been identified, documented, implemented or scheduled for implementation by West Texas Gas. West Texas Gas should perform and document the necessary analysis. Then, based off of the analysis implement the appropriate preventative and mitigative measures per 49CFR Part 192 Subpart O and West Texas Gas IM procedures.
2. West Texas Gas should complete item 1 within 90 days of receipt of the Final Order.
3. It is requested (not mandated) that West Texas Gas, Inc maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest 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.