

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

May 16, 2012

Richard Hatchett  
Vice President of Operations  
West Texas Gas, Inc.  
211 North Colorado  
Midland TX 70701-4607

**CPF 4-2012-1008**

Dear Mr. Hatchett:

On July 6 and 7, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code was onsite and inspected the West Texas Gas, Inc. (WTG) Public Awareness Program (PAP) at the WTG offices in Plainview, Texas.

As a result of the inspection, it appears that WTG has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. **§192.616 Public Awareness**
  - (c) **The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

WTG did not prepare their PAP in accordance with the regulations. Specifically WTG did not include their unique attributes and characteristics in their PAP. API RP 1162 section 1.3.2 Baseline Public Awareness Program states:

“Refers to general program recommendations, set forth in Recommended Practice 1162, The baseline recommendations do not take into consideration the unique attributes and characteristics of individual pipeline operators’ pipeline and facilities. Supplemental or enhanced program components are described in the RP to provide guidelines to the operator for enhancing its Public Awareness Programs. This is described more fully in Sections 2 and 6.”

The WTG PAP consists mainly of language from parts of API RP 1162 applicable to natural gas transmission systems. In creating its PAP, it appears that WTG started with API RP 1162, substituted “WTG/WGI” for “the operator,” added “WTG/WGI” in a number of locations, deleted all language not specifically related to natural gas transmission operators, deleted Figure 2-1 and made only very minor additional editorial changes. As a result, the WTG PAP does not appear to take into consideration any of the unique attributes and characteristics of the WTG system. Based on the on-site inspection, it appears that WTG had little interest in actively participating in the implementation of its PAP. This is consistent with the simplistic approach taken in the creation of the WTG PAP.

## 2. §192.616 Public Awareness

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

WTG failed to conduct annual audits or reviews of whether the (PAP) program has been developed and implemented according to the guidelines contained in API RP 1162. Specifically section 8.3 of WTG’s PAP states:

“WGT/WGI shall complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in API RP 1162. The purpose of the audit is to answer the following two questions:

- Has the Public Awareness Program been developed and written to address the objectives, elements and baseline schedule as described Section 2 and the remainder of this API RP 1162?
- Has the Public Awareness Program been implemented and documented according to the written program?”

Both section 8.3 and Table 8-1 of the WTG PAP require an annual audit or review of whether the (PAP) program has been developed and implemented according to the guidelines contained in API RP 1162. Both the WTG PAP and API RP 1162 cite Appendix E to API RP 1162 for a sample set of questions that will aid the program administrator and district managers in auditing the program implementation process.

During the inspection, WTG asserted that annual reviews had been conducted and researched meeting notes and other records but produced nothing that could be reasonably considered an annual audit or review. Upon further questioning by the inspector, WTG appeared unfamiliar with the sample set of

questions contained in Appendix E to API RP 1162 and ultimately admitted that annual audits or reviews had not been conducted.

**3. 49 CFR §192.616(c)**

**The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

WTG failed to conduct an evaluation of the effectiveness of the PAP implementation every four years. Specifically WTG’s PAP section 8.4.2 states:

“... Once validated in this initial manner, a program effectiveness survey is only required about every four years. However, when the operator introduces major design changes in its Public Awareness Program a survey to validate the new approaches may be warranted.”

Table 8.1 adds the recommended frequency is “No more than four years apart”. During the inspection, WTG admitted that they had never conducted a four-year effectiveness evaluation.

Proposed Civil Penalties

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 violations and has recommended that you be preliminarily assessed a civil penalty of \$53,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
2.	\$26,800
3.	\$26,200

Proposed Compliance Order

With respect to these items, 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 4-2012-1008** 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 the failure not take into consideration the unique attributes and characteristics of WTG's' pipeline and facilities, WTG must revise its PAP to reflect the unique characteristics of the WTG system and submit a copy of the entire revised WTG PAP to the PHMSA Southwest Region within 180 days of the Final Order.
2. It is requested (not mandated) that WTG 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.