

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 12, 2019

Eric Amundsen
Senior Vice President Operations
Energy Transfer Company
1300 Main Street
Houston, Texas 77002

CPF 4-2019-5016

Dear Mr. Amundsen:

On April 2, 2018 through October 29, 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 inspected Energy Transfer Company's (Energy Transfer) Lone Star NGL – East and West pipeline system (Gateway Justice Pipeline) in Houston, Abilene, Victoria, and Midland, Texas.

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:

1. §195.402 Procedural manual for operations, maintenance, and emergencies.

- (a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

Energy Transfer failed to follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, it failed to follow section 7.3 of its written procedure, HLD.44 for Atmospheric Corrosion Inspection which requires the inclusion of certain additional details in the inspection records.

The procedure (HLD.44) requires that coating conditions be ranked (as either good, fair, poor, or bare) as part of the evaluation carried out during the inspection, with section 7.4 requiring that the evaluations be documented. Work order numbers 629055, 1602951, 399997, and 1535422 do not document evaluation results or rankings of the coating conditions. Also, the inspection reports for the segments between Highway 87 and Jackson plant, SE Hull to Odell extension and Odell to Mont Belvieu pump stations 1-5 did not include coating condition rankings or evaluation of the results as required.

2. §195.452 – Pipeline integrity management in high consequence areas.

- (b) What program and practices must operators use to manage pipeline integrity?
Each operator of a pipeline covered by this section must:**

(1) Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table not later than the date in the second column:

(5) Implement and follow the program.

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(1) General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

Energy Transfer failed to follow its procedures for managing pipeline integrity by not periodically evaluating the integrity of each pipeline segment that could affect a high consequence area. Specifically, Energy Transfer failed to follow section 7 of its written Integrity Management Plan requiring that periodic evaluations be carried out at intervals not exceeding 15 months. Following the 2017 assessments, the periodic evaluation record prepared for the PS5 to PS6 16” segment was reviewed. Records showing periodic evaluations carried out for 2013, 2014 and 2015 were unavailable for review and not subsequently provided. The other five (5) segments on the Gateway and Justice systems assessed in 2017 did not have evaluation records either. Energy Transfer, therefore, failed to conduct periodic evaluations on segments of the Gateway and Justice system as required under its procedures and pipeline safety regulation in §195.452 (j)(2).

3. §195.452 – Pipeline integrity management in high consequence areas.

(b) What program and practices must operators use to manage pipeline integrity? Each operator of a pipeline covered by this section must:

(1) Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table not later than the date in the second column:

(5) Implement and follow the program.

Energy Transfer failed to follow section 7.0 of the Integrity Management Plan requiring the re-assessment of the pipeline segments that affect a high consequence area at intervals not to exceed 5 years. The Monument Junction to WT2 and WT2 to Halley Junction segments were initially assessed on October 5, 2012 and the subsequent reassessments did not happen until April 27, 2018 and May 16, 2018, for the respective segments. The reassessments exceeded the 5 year duration by 6 to 8 months.

4. §195.452 – Pipeline integrity management in high consequence areas.

**(b) What program and practices must operators use to manage pipeline integrity?
Each operator of a pipeline covered by this section must:**

(1) Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table not later than the date in the second column:

(5) Implement and follow the program.

Energy Transfer failed to follow Section 9 of its written Integrity Management Plan that requires the evaluation of the Integrity Management Program annually and its distribution to management by December 15th. The record for the annual evaluation of the program using performance measures shows that the evaluation was not carried out between 2013 and 2016 (5 years). The first year this evaluation was carried out was in 2017.

5. §195.452 – Pipeline integrity management in high consequence areas.

(l) What records must an operator keep to demonstrate compliance?

(1) An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At a minimum, an operator must maintain the following records for review during an inspection:

(ii) Documents to support the decisions and analyses, including any modifications, justifications, deviations and determinations made, variances, and actions taken, to page 622 implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

Energy Transfer failed to provide any record that shows that an evaluation for the need or lack of need for Emergency Flow Restricting Device (EFRD) on the segments that could affect an HCA, of the Lone Star NGL pipeline system had been carried out. Energy Transfer stated that it determined that EFRDs were not necessary on its system after an evaluation was carried out; however, Energy Transfer could not provide any records substantiating this finding or decision.

Likewise, Energy Transfer failed to maintain records showing the risk analysis results from previous years compared against the current risk analysis results. Energy Transfer stated these records were not maintained in its database.

6. **§195.583 – What must I do to monitor atmospheric corrosion control?**

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months

Energy Transfer failed to inspect exposed portions of its 24” Permian Connector at Hailey Junction for evidence of atmospheric corrosion within the 3 calendar years to 39 months frequency required under 49 CFR §195.583. The inspection records show the last inspection was on July 14, 2014 and subsequently on April 4, 2018. The interval between the inspections was therefore 45 months which exceeded the required deadline by 6 months. The required follow up inspection should have occurred no later than October 14, 2017.

Proposed Civil Penalty

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. 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 \$73,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$73,600

Warning Items

With respect to item numbers 3,4, and 6 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 items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Energy Transfer Company. 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).

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 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 4-2019-5016** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel P.E.
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 Energy Transfer a Compliance Order incorporating the following remedial requirements to ensure the compliance of Energy Transfer Company with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to ranking of atmospheric corrosion inspection and documenting the evaluation results as set forth in HLD 44 procedure, Energy Transfer shall review the HLD 44 procedure and retrain it's corrosion control personnel on the requirements for evaluating coating conditions and properly documenting the atmospheric corrosion evaluation / inspection.
2. In regard to Item Number 5 of the Notice pertaining to Energy Transfer's inability to provide records showing that an evaluation for the need for EFRD on the Lone Star NGL pipeline was carried out, Energy Transfer shall conduct an EFRD study and provide records of that study to PHMSA.
3. Records showing all trainings, retraining's, implementations and plan of correction as required in Items 1 and 5 of this compliance order shall be submitted within 90 days of the issuance of the Final Order.
4. It is requested (not mandated) that Energy Transfer Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, 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.