

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY**

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

June 4, 2020

Steven J. Kean
Chief Executive Officer
Kinder Morgan
1001 Louisiana St, Suite 1000
Houston, TX 77002-5089

CPF 4-2020-1006

Dear Mr. Kean:

From May 6 through October 4, 2019, 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.) investigated the Maximum Allowable Operating Pressure (MAOP) exceedances which occurred at your subsidiary El Paso Natural Gas Company's Newman Power Plant Regulator and Metering Facility in El Paso, Texas.

As a result of the investigation, 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. **§191.25 Filing safety-related condition reports.**
 - (a) **Each report of a safety-related condition under §191.23(a) must be filed (received by OPS within five working days, not including Saturday, Sunday, or Federal Holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. Reports may be transmitted by electronic mail to InformationResourcesManager@dot.gov or by facsimile at (202) 366-7128.**

El Paso Natural Gas Company (EPNG) failed to file Safety Related Condition Reports (SRCR) for safety related conditions that occurred on its Line 2080 at the Newman Power Plant Regulator Station and Metering Facility. On 15 separate days between August 29, 2015, and March 17, 2019, EPNG exceeded its established MAOP (275 psi) plus allowable build-up (110%). Each of these events required reporting as a safety related condition defined in § 191.23(a)(6); however, EPNG failed to file SRCR for these MAOP Exceedance events as required.

2. §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...

EPNG operated its Line 2080 piping at the Newman Power Plant at a pressure that exceeded the maximum allowable operating pressure established in accordance with §192.619(a) for the facility. EPNG exceeded its established MAOP (plus allowable build-up). The established MAOP for the line at the time of the event was 275 psig.

EPNG reported seven of these MAOP Exceedance events because they met the reporting criteria for SRCRs as defined in §191.23(a)(6). In addition to the seven events reported in SRCs 19-148213 and 19-448119, EPNG experienced 13 additional overpressure events that occurred between August 29, 2015, and March 17, 2019. The maximum pressures exceeded 110% of the MAOP of the line on:

Date	Time & Duration	Highest Pressure observed During MAOP Exceedance	% MAOP > 275 psig
08.29.15	04:34 (approx. 12 min)	307 psig	111.6%
12.27.15	21:27-23:19 (1 hr/52 min)	320 psig	116.3%
02.14.16	07:50-09:26 (1 hr/36 min)	329 psig	119.6%
05.11.16	02:20-03:08 (58 min)	329 psig	119.6%
05.19.16	02:16-02:24 (appr. 12 min)	305 psig	110.9%
12.19.16	09:08-12:06 (3 hr/58 min)	568 psig	206.5%
11.16.18	07:12 (appr. 8 min)	340 psig	123.6%
12.15.18	03:09-03:13 (appr. 5 min)	310 psig	124.0%
12.15.18	03:21 (appr. 2 min)	306 psig	111.3%
12.15.18	03:35-03:42 (appr. 7 min)	312 psig	113.5%
12.15.18	03:46-04:05 (appr. 20 min)	327 psig	118.9%
12.20.18	20:35 (appr. 2 min)	303 psig	110.2%
12.20.18	21:40-21:45 (appr. 5 min)	303 psig	110.2%
12.20.18	22:45-22:50 (appr. 5 min)	305 psig	110.9%
12.30.18	07:28 (no read)		

02.09.19	07:27-07:36 (appr. 9 min)	314 psig	114.2%
03.14.19	03:56-04:04 (appr. 8 min)	339 psig	123.2%
03.14.19	08:28-10:29 (2 hr/12 min)	503 psig	182.9%
03.16.19	19:49-20:07 (appr.18 min)	343 psig	124.7%
03.16-17.19	23:56-00:32(appr.4 min)	511 psig	185.8%

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. 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 documentation involved for the above probable violation(s) and recommend that you be preliminarily assessed a civil penalty of \$123,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$35,900
2	\$87,400

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 4-2020-1006** 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

cc: Kenneth Grubb, Chief Operating Officer, El Paso Natural Gas Company, 1001 Louisiana Street, Ste. 1000, Houston, Texas 77002-5089

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