

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

November 16, 2020

Stanley Chapman III
Executive VP & President U.S. Pipelines
ANR Pipeline Company
700 Louisiana Street
Houston, Texas 77002

CPF 4-2020-1010

Dear Mr. Chapman:

From March 8, 2019 through January 8, 2020, 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 your natural gas pipeline and associated facilities for ANR Pipeline Company's Southwest North (Mid America Region - Southeast Mainline) Pipelines, Loop Lines 501, 1-501, and 2-501, and System 1168 in Louisiana, Mississippi, Arkansas, Tennessee, and Kentucky.

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. §192.616 Public Awareness

- (a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, *see* § 192.7).**

ANR Pipeline Company's (ANR) Public Awareness Program (PAP), dated September 13, 2019, failed to follow the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 as required by §192.616(a). Specifically, ANR failed to follow general program recommendations in Section 8 of API RP 1162 in implementing its PAP.

First, ANR failed to implement Sections 11 and 12 of its PAP, which follows the guidance in API RP 1162, Section 8.3, *Measuring Program Implementation*. ANR failed to implement two recommendations from the 2015 Management Review for improvements into their 2016 PAP. In response to a request for information regarding ANR's incorporation of recommendations into its 2016 PAP, ANR was unable to provide any documentation that it had implemented the following two recommendations into its 2016 PAP: Recommendation One – ANR's System Wide Risk Assessment data plan; and Recommendation Two - An internal audit process for all communication related to the execution of recommendations from the effectiveness studies and implementation of communication best practices.

Second, ANR failed to assess the effectiveness of its PAP every four years, in accordance with Section 8.4, *Measuring Program Effectiveness*, and Table 8-1, *Summary of Baseline Evaluation Program*, of API RP 1162 and Sections 6, 11, and 12 of its PAP. ANR conducted an effectiveness review in 2014 and did not conduct a subsequent effectiveness review until 2019. Therefore, ANR exceeded the four-year interval requirement prescribed in API RP 1162 and its own procedures by one year.

Additionally, prior to performing an effectiveness review, ANR contracted a third-party vendor to prepare an effectiveness study to be utilized for and incorporated into ANR's effectiveness review. However, this 2018 effectiveness study contained numerous inaccuracies, errors, and erroneous data, such as references to non-ANR assets and data from outside the required four-year interval. The effectiveness review of the PAP, which ANR eventually completed in 2019, relied upon the inaccuracies and erroneous data from the 2018 effectiveness study. The effectiveness review also failed to incorporate certain information required by Section 12 of ANR's PAP, such as the operator's monthly and quarterly Employee Health and Safety Management – Incident Tracking Tool (EHSM) reports.

2. §192.727 Abandonment or deactivation of facilities.

(a) . . .

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas; purged of gas; in the case of offshore pipelines, filled with water or inert materials; and sealed at the ends. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

ANR failed to abandon its pipeline in accordance with §192.727(b) and its operation and maintenance (O&M) Procedure 003864117 Section 4.4 titled, *Deactivation or Abandonment*. Specifically, ANR failed to properly abandon its VGR pipeline at the Madisonville Kentucky Compressor Station by disconnecting the pipeline from all gas sources, purging, filling the pipeline with an inert material, and sealing the ends of the pipeline.

At the time of inspection, ANR's Madisonville Kentucky Compressor Station site plan/maps showed a 2"-3" VGR pipeline as having been abandoned in-place on August 26, 2019. Upon further investigation, PHMSA learned the operator had only closed a valve with the line still under pressure even though the pipeline was marked on ANR's site plan/station maps as abandoned. PHMSA reviewed the regulatory requirements and the O&M Procedure with ANR, who agreed that the requirements for abandonment had not been followed and corrected the pipeline designation on September 11, 2019, from abandoned to active on the site plan/maps.

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 \$36,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$36,200

Warning Item

With respect to item 2, 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 this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

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 ANR Pipeline 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 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 4-2020-1010** 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 Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item 1 of the Notice pertaining to the ANR's 2018 Four-year Effectiveness Study and Review, ANR must provide PHMSA with documentation that they have corrected and validated their 2018 Effectiveness Review and Study to ensure it accurately reflects the requirements of API RP 1162. If ANR is unable to make corrections to its 2018 Effectiveness Review and Study to meet the requirements of API RP 1162, ANR must conduct and complete a new Effectiveness Review and Study of its PAP.
2. ANR must submit documentation to Mary McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration to demonstrate compliance with the requirements of Item 1 within 180 days of receipt of the Final Order.
3. It is requested (not mandated) that ANR maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary 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.