



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 17, 2014

Mr. Steve Magness
Director of Operations
Cogent Energy Solutions, LLC
3100 Timmons Lane, Suite 210
Houston, TX 77027

CPF 5-2014-6004

Dear Mr. Magness:

On September 10, 2014, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected your Casper Crude to Rail pipeline system in Casper, Wyoming. The inspection was prompted by a September 2nd meeting with you and your staff where you self-disclosed recent awareness that Cogent, LLC, as operator of the Casper pipeline facility, was regulated by PHMSA. A PHMSA inspector, however, had conducted construction inspections of your facilities last spring. Furthermore, Mr. Steve Senter of Cogent Energy Solutions, LLC applied for a PHMSA Operator ID (OPID) on September 17, 2013 for the Casper to Crude Oil pipeline system and asked that the operator name be Casper Crude to Rail, LLC.

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 items inspected and the probable violations are:

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

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.

At the time of the inspection, Cogent Energy Solutions, LLC (Cogent) did not have a manual of written procedures to comply with the requirements of §195.402(a) that could be applied to its crude oil pipeline system in Casper, Wyoming. Cogent's procedural manual consisted of little more than an outline of operational procedures required to run its transmission pipeline. The manual did not describe in any detail the specifics of pipeline operations, maintenance, or emergency response mandated by the other regulations in 49 CFR Part 195.

2. §195.440 Public awareness.

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 (IBR, see § 195.3).

At the time of the inspection, Cogent had not developed and implemented a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162.

3. §194.101 Operators required to submit plans.

(a) Except as provided in paragraph (b) of this section, unless OPS grants a request from an Federal On-Scene Coordinator (FOSC) to require an operator of a pipeline in paragraph (b) to submit a response plan, each operator of an onshore pipeline facility shall prepare and submit a response plan to PHMSA as provided in §194.119. A pipeline which does not meet the criteria for significant and substantial harm as defined in §194.103(c) and is not eligible for an exception under §194.101(b), can be expected to cause substantial harm. Operators of substantial harm pipeline facilities must prepare and submit plans to PHMSA for review.

At the time of the inspection, Cogent had not submitted a response plan to PHMSA as required by §194.119. PHMSA must review, and if necessary, approve the response plan. The plan is to be completed prior to pipeline operation.

4. **§199.101 Anti-drug plan.**

- (a) Each operator shall maintain and follow a written anti-drug plan that conforms to the requirements of this part and the DOT Procedures. The plan must contain—**
- (1) Methods and procedures for compliance with all the requirements of this part, including the employee assistance program;**
 - (2) The name and address of each laboratory that analyzes the specimens collected for drug testing; and**
 - (3) The name and address of the operator's Medical Review Officer, and Substance Abuse Professional; and,**
 - (4) Procedures for notifying employees of the coverage and provisions of the plan.**

At the time of the inspection, Cogent had not prepared a written anti-drug plan that conforms to the requirements to the 49 Code of Federal Regulation, Part 199.

Proposed Compliance Order

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to items 1-4 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Cogent Energy Solutions, LLC. 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 5-2014-6004** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Hoidal". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry
PHP-500 J. Kenerson (#145757)

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 Cogent Energy Solutions, LLC a Compliance Order incorporating the following remedial requirements to ensure the compliance of your company with the Federal pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the development of a procedural manual for operations, maintenance, and emergencies, Cogent must prepare and O&M Manual that fully describes procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.
2. In regard to Item Number 2 of the Notice pertaining to Public Awareness, Cogent must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute (API).
3. In regard to Item Number 3 of the Notice pertaining to operators required to submit plans, Cogent must prepare and submit a response plan to PHMSA as provided in §194.119.
4. In regard to Item Number 4 of the Notice pertaining to operator's requirement to maintain and follow a written anti-drug plan, Cogent must maintain and follow a written anti-drug plan that conforms to the requirements of 49 CFR Part 199.
5. Cogent shall have 90 days after receipt of a Final Order to complete the items.
6. It is requested (not mandated) that Cogent Energy Solutions, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western 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.