



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

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

OVERNIGHT EXPRESS DELIVERY

March 25, 2019

Mr. William T. Yardley
President of Gas Transmission & Midstream Operations
Enbridge, Inc.
5400 Westheimer Court
Houston, TX 77056

CPF 1-2019-1008

Dear Mr. Yardley:

From July 30, 2018 to August 2, 2018, an inspector from the Public Utility Commission of Ohio (PUCO), acting as Agent for 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 Texas Eastern Transmission, LP's (Texas Eastern) "Spectra TX Eastern North" inspection system's facilities within Ohio.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violation(s) are:

1. § 192.947 What records must an operator keep?

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

(c) A written baseline assessment plan in accordance with § 192.919.

Texas Eastern failed to maintain for the useful life of the pipeline its written baseline assessment plan and associated baseline assessment records for pipeline segments located in high consequence areas (HCAs) in Ohio.

During the inspection, the PUCO inspector requested baseline assessment records for PHMSA Inspection Unit 9423, which included 12.95 miles of pipeline segments within identified HCAs in Ohio. Texas Eastern informed PUCO that the baseline assessment plan was established at the time of the integrity management (IMP) rule, but Texas Eastern could not find initial baseline assessment records. The records not maintained included the initial baseline assessment plan schedule and initial assessment (pressure tests, in-line-inspections, direct assessments) results. Texas Eastern has since performed reassessments on 12.20 miles of these HCAs in accordance with § 192.939, for which records were available.

Therefore, Texas Eastern failed to maintain for the useful life of the pipeline its written baseline assessment plan and associated baseline assessment records for 12.95 miles of pipeline segments located in HCAs within Ohio.

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 \$32,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$32,800

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 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 the receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, New Jersey 08628. Please refer to **CPF 1-2019-1008** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Burrough".

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*
CC: *Pete Chase, PUCO*