



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergyllp.com;
Jennifer.eckels@tallgrassenergyllp.com; brad.armsbury@tallgrassenergyllp.com; and
crystal.heter@tallgrassenergyllp.com

December 13, 2021

William Moler
Chief Executive Officer
Rockies Express Pipeline LLC
4200 W. 115th St. Suite 350
Leawood, KS 66211

CPF 3-2021-087-NOPV

Dear Mr. Moler:

On February 6, 2006, pursuant to 49 United States Code (U.S.C.) § 60118(c) and 49 Code of Federal Regulations (CFR) § 190.341, Rockies Express Pipeline LLC (REX) filed a special permit request with the Pipeline & Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), for a waiver from certain provisions of 49 CFR § 192. PHMSA issues special permits to pipeline operators if the agency determines that a waiver of a particular regulation or standard is not inconsistent with pipeline safety. On July 11, 2006, PHMSA issued an order granting REX a special permit with certain conditions and limitations (Order).¹

From May 10 through August 13, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49

¹ See PHMSA 2006-23998.

United States Code (U.S.C.) inspected Rockies records and facilities in Colorado, Nebraska, Kansas, and Missouri, including records related to the Order.

As a result of the inspection, it is alleged that REX has committed a probable violation of the Order and the pipeline safety regulations. As stated in 49 CFR § 190.203(f), when information obtained from an inspection indicates that further OPS action is warranted, OPS may initiate one or more enforcement proceedings prescribed in §§ 190.207 through 190.235.

The items inspected and the probable violations are:

1. PHMSA 2006-23998 - Condition 33.

Pipeline Markers: Rockies Express must employ line-of-sight markings on the pipeline in the waiver area except in agricultural areas, subject to Federal Energy Regulatory Commission permits or environmental permits and local restrictions.

REX failed to comply with Condition 33 of the Order. Condition 33 required REX to employ line of site markers in the special permit area. Upon inspection there were six (6) instances of missing line of site markers in the special permit area. REX has since placed markers to comply with Condition 33 of the Order at the following locations:

- Line segment Bertrand to Steele City – two areas of violation:
 - Steele City 2nd street; and
 - Near Little Blue River and Sorenson Avenue West of Steele City.
- Line segment Steele City to Turney – four areas of violation:
 - Near 11th road and Big Blue River North of Oketo, KS;
 - Near Highway Y and Highway 340;
 - Near the Southern Star Tap on Southeast Mt. Zion Road and Highway V; and
 - Near Lost Creek, Agency, MO and Robin Drive.

2. § 192.481 Atmospheric corrosion control: Monitoring.

(a)

(b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

REX failed to give particular attention during inspections to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. Specifically, records reviewed from a 2020 atmospheric corrosion inspection show that REX failed to inspect for atmospheric corrosion under thermal insulation at the Steele City compressor station and deck penetrations at the Turney compressor station.

During the PHMSA field inspection at the Steele City compressor station, REX field personnel verbally confirmed that insulation was not removed during atmospheric corrosion inspections. Additionally, atmospheric corrosion records reviewed did not indicate that insulation was removed for examination.

During the PHMSA field inspection at the Turney compressor station, field personnel verbally confirmed that deck penetrations are not given particular attention for atmospheric corrosion inspections. Additionally, atmospheric corrosion records reviewed did not indicate that deck penetrations were given attention for examination.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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.

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 \$52,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$20,700
2	\$31,700

Proposed Compliance Order

With respect to item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tallgrass. 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 3-2021-087-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

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

cc: Jennifer Eckles, Director Compliance, jennifer.eckels@tallgrassenergyllp.com
Crystal Heter, Chief Operating Officer, crystal.heter@tallgrassenergyllp.com
Brad Armsbury, Compliance Engineer, brad.armsbury@tallgrassenergyllp.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item Number 2 of the Notice pertaining to the failure to inspect pipe for atmospheric corrosion at its compressor station, REX must, within **90** days of the Final Order:
 - i. Evaluate all locations in the scope of the inspection for buildings with pipe penetrating building walls that have not been inspected adequately.
 - ii. Perform adequate visual inspection at all locations identified by the evaluation required by i and document.
 - iii. Must develop and implement training to ensure individuals who perform atmospheric corrosion inspections have necessary knowledge and skills to perform the atmospheric corrosion inspections in a manner required by § 192.481.
 - iv. Submit revised training and records of inspection upon completion to the Director of Central Region.
- B. It is requested that Tallgrass maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, OPS, 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.