

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

VIA ELECTRONIC MAIL TO: matt@tallgrass.com; crystal.heter@tallgrass.com;
Danielle.stephens@tallgrass.com;

September 6, 2024

Matt Sheehy
President & Chief Executive Officer
Tallgrass Energy, LP
370 Van Gordon Street
Lakewood, CO 80228

CPF 3-2024-040-NOPV

Dear Mr. Sheehy:

From February 2, 2023, to January 25, 2024, of the on-site inspection, 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 Rockies Express Pipeline, LLC's (REX) pipeline facilities from Mexico, Missouri to Powhatan Point, Ohio. REX is a subsidiary of Tallgrass Energy, LP.

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

1. § 191.22 – National Registry of Operators.

(a)

(c) *Changes.* Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at <https://portal.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) Construction of any planned rehabilitation, replacement, modification, upgrade, uprate, or update of a facility, other than a section of line pipe, that costs \$10 million or more. If 60-day notice is not feasible because of an emergency, an operator must notify PHMSA as soon as practicable;

REX failed to notify PHMSA of a planned modification to the Rockies Express pipeline costing more than \$10 million, no later than 60 days before it began, per the requirements of § 191.22(c)(1)(i). The planned modification involved the construction of a new 12” lateral and meter facility to deliver gas to Duke Energy Madison. During the inspection, PHMSA reviewed records, made a site visit, and requested confirmation of the project’s cost. On September 29, 2023, a late notification was submitted to PHMSA that listed the start date of the project was May 1, 2023, with an anticipated date of operational start-up as November 1, 2023. REX confirmed by an email to PHMSA sent on October 24, 2023, that the project’s estimated cost was \$11.3 million. Thus, REX failed to report the planned modification to the Rockies Express pipeline 60 days before the commencement of the project as required by the regulation and REX’s internal procedure, “OM 211_GL Annual, Construction, Major Revisions Reporting.”

Notification of construction activities is a well-established requirement and REX was previously warned of a probable violation per CPF No. 3-2021-001-WL.

2. § 192.5 – Class Locations.

(a)

(b) Except as provided in paragraph (c) of this section, pipeline locations are classified as follows:

(1) A Class 1 location is:

(i) An offshore area; or

(ii) Any class location unit that has 10 or fewer buildings intended for human occupancy.

(2) A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.

(3) A Class 3 location is:

(i) Any class location unit that has 46 or more buildings intended for human occupancy; or

(ii) An area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

REX failed to identify the correct class location at two sites on the REX/Kinetrex Interconnect lateral pipeline, per the requirements of § 192.5(b). Specifically, REX failed to identify a Class 2 pipeline segment within a class location unit that contained more than 10 but fewer than 46 buildings intended for human occupancy. Additionally, REX failed to identify a Class 3 segment in the areas where the pipeline is located within 100 yards of a small, well-defined outside area

occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period (the days and weeks need not be consecutive).

Firstly, REX failed to properly identify a Class 2 location. Maps and records provided of a class location unit identified by REX as Class 2, showed the initial structure survey failed to identify a building intended for human occupancy at GPS coordinates 39.727678°, -86.507012°. Upon PHMSA's request, the building was reviewed and determined by REX on May 8, 2023, to be intended for human occupancy. The inclusion of the building in the class location extended the end points of the initially identified Class 2 pipeline segment by a combined approximate total of 1,154 feet. The segments were identified where the pipeline laid within 220 yards from the building, from stations 180+00 to 189+45, and 196+17 to 198+31.

Secondly, REX failed to properly identify a Class 3 location. Maps and records provided of the initial class location of the lateral also showed that the pipeline traverses the recreation area of the Danville Sports fields, near the town of Danville, Indiana, which meets the definition of a Class 3 well-defined outside recreation area per § 192.5(b)(3)(ii). However, REX failed to extend the Class 3 location an approximate total of 1,028 feet because it did not consider the pipeline segments that lie within 100 yards of the boundary of the recreation area. The incorrectly classified pipeline segments extend within a 100-yard buffer area around the sports fields, from stations 228+32 to 236+68, and 251+82 to 253+74.

Thus, in these two instances, REX failed to properly identify the correct class locations at two sites, in violation of § 192.5(b).

This violation is a repeat of violations found in CPF # 3-2022-060-NOPV, Item # 1.

3. § 192.195 - Protection against accidental overpressuring.

(a) *General requirements.* Except as provided in § 192.197, each pipeline that is connected to a gas source so that the maximum allowable operating pressure could be exceeded as the result of pressure control failure or of some other type of failure, must have pressure relieving or pressure limiting devices that meet the requirements of §§ 192.199 and 192.201.

REX failed to install adequate pressure relieving or limiting devices meeting the requirements of §§ 192.199 and 192.201 on its REX/Kinetrex Interconnect (RKI) pipeline, which was connected to a source of gas that could exceed its MAOP of 1475 psig. From records reviewed during the inspection, PHMSA identified that the MAOP of the REX 42-inch mainline exceeded the MAOP of the downstream RKI pipeline by five psig (1480 psig). As a result of this finding, REX lowered the discharge pressure at its Hamilton Compressor Station to 1475 psig and adjusted high-pressure alarms at mainline valve 80. However, PHMSA also identified that the REX mainline pipeline is configured to operate directionally and has multiple compressor stations that are upstream of the RKI. Due to this configuration and option to move gas bidirectionally, PHMSA requested clarification concerning other upstream stations on the mainline that could cause overpressure; however, REX did not confirm that the discharge pressure limits at any additional upstream stations, or group of stations were adjusted. Because additional stations are

still configured to operate at the REX mainline MAOP of 1480 psig, RKI is not adequately protected from overpressure, and therefore, REX is in violation of § 192.195(a).

4. § 192.491 – Corrosion control records.

(a)

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years with the following exceptions:

REX failed to maintain a record of each test, survey, or inspection required by subpart I, in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist, per the requirements of § 192.491(c). PHMSA reviewed REX's cathodic protection records containing over 180 alternating current (AC) mitigation devices in Ohio and found that AC mitigation devices were connected during annual monitoring tests on the REX Ohio corridors. PHMSA found that during testing these devices discharged current that affected the voltage shift (e.g., "IR drop") recorded during the surveys. Specifically, REX stated through its data review, it had found voltage readings appearing approximately 50-150mV more electronegative where AC mitigation devices were left connected during annual inspections. The survey readings affected by these devices are therefore unreliable and the values cannot be used for valid interpretation of the protective polarized voltage measurement across the structure-electrolyte boundary at these locations. As a result, REX's records also did not provide sufficient detail to demonstrate the adequacy of corrosion control measures at locations with results affected by the current discharge from AC mitigation devices. Because of the lack of sufficient data and detail, adequate corrosion control was not demonstrated, and REX is in violation of § 192.491(c).

5. § 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 (MAOP) determined under paragraph (c), (d), or (e) of this section, or the lowest of the following:

(1) The design pressure of the weakest element in the segment, determined in accordance with subparts C and D of this part....

REX established the MAOP of its RKI pipeline at a pressure that exceeded the design pressure of its weakest element, per the requirements of § 192.619(a)(1). PHMSA determined after reviewing as-built records and Class determination records that the RKI pipeline was placed into service on or about July 28, 2022, and that REX failed to extend the 0.5 Class 3 design factor along two segments where the RKI pipeline lies within 100 yards of the Class 3 well-defined outside area of public assembly established by the Danville Sports fields.

Subpart C, §192.111 - Design factor (*F*) for steel pipe.

(a) Except as otherwise provided in paragraphs (b), (c), and (d) of this section, the design factor to be used in the design formula in § 192.105 is determined in accordance with the following table:

Class location	Design factor (<i>F</i>)
1	0.72
2	0.60
3	0.50
4	0.40

REX’s incorrect classification in these areas as Class 2 pipe, resulted in a design factor of 0.6 to establish the intended MAOP of 1,480 psig. The approximate stations of the segments are from 228+32 to 236+68 and from 251+82 to 253+74. The pipe used at these Class 3 locations was 6" x 0.188"w.t. X52M ERW. The correct 0.5 design factor applied to these segments limits the operating pressure to an MAOP of 1,475 psig per the design formula in § 192.105.

As a result of PHMSA's findings, REX completed an operational management of change at one of its pressure regulating stations on August 15,2023, to revise MAOP to 1,475 psig on the RKI lateral.

6. §192.705 - Transmission lines: Patrolling.

(a)

(c) Methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way.

REX failed to patrol its right-of-way (ROW) using an appropriate means, per the requirements of § 192.705(c). Specifically, REX used aerial patrols at locations where surface conditions (e.g., trees and vegetation) did not allow for adequate observation of the ROW.

During the inspection PHMSA reviewed patrolling records and confirmed via interviews with REX personnel that aerial patrol was the only method utilized at the following locations where vegetation and/or tree canopy cover prevented observation of the ROW from the air:

<u>Location (GPS)</u>	<u>Approximate Length</u>
Deer Creek Xing (39.644143°, -83.260560°)	2,920 ft
Caesar’s Creek Xing (39.555397°, -83.974390°)	1,020 ft
Whitewater River Xing (39.396653°, -85.010948°)	466 ft
Big Walnut Creek Xing (39.739568°, -86.778622°)	1,275 ft

REX’s procedure for patrolling, “OM215_GL Patrolling and Leak Detection,” Sec 3.8.3 stated, “Surface patrols should be used when conditions do not allow aerial patrols to provide adequate observation of the right-of-way (ROW).” Therefore, because REX failed to follow its procedure to use surface patrols in areas of tree canopy, REX's patrols at those locations were inadequate, and REX is in violation of § 192.705(c).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023, and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022, and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$246,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$39,100
2	\$149,700
6	\$58,000

Proposed Compliance Order

With respect to Items 3, 4, 5, and 6 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to REX. 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2024-040-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

cc: Danielle Stephens, DOT Compliance Primary, Tallgrass Energy, L.P.,
Danielle.Stephens@tallgrass.com;
Crystal Heter, Chief Operating Officer, Tallgrass Energy, L.P.,
crystal.heter@tallgrassenergylp.com

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 REX a Compliance Order incorporating the following remedial requirements to ensure the compliance of REX with the pipeline safety regulations:

- A. In regard to Item 3 of the Notice, pertaining to the failure to have pressure relieving or pressure limiting devices meeting the requirements of §§ 192.199 and 192.201, for a pipeline connected to a gas source so that the maximum allowable operating pressure could be exceeded, and in regards to Item 5 of the Notice, pertaining to the failure to determine the MAOP at a pressure that did not exceed the design pressure of its weakest element, REX must adjust or install protective devices on the Rockies Express mainline pipeline system to ensure that the MOAP of downstream REX/Kinetrex Interconnect (RKI) is not exceeded. Within **90** days of receipt of the Final Order, REX must:
 - i. Review the capacity of its pressure relieving and limiting stations, and any group of stations, configured to deliver gas to the RKI, to ensure that pressure relief and limits are adequate for protecting the RKI from overpressure in accordance with the requirements of §§ 192.199, and 192.201.
 - ii. Plan and schedule all corrective actions determined necessary by the review from item A.1., above.
 - iii. Submit the detailed results of A.1. and A.2. above to the Director, PHMSA Central Region, for review and approval.

- B. In regard to Item 4 of the Notice, pertaining to the failure to record each test, survey, or inspection in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist, REX must:
 - i. Within **90** days of receipt of the Final Order, submit to the Director, PHMSA Central Region, records demonstrating in sufficient detail the method in which REX considered IR drops other than those across the structure-electrolyte boundary. The records shall detail all locations affected by the current discharge from AC mitigation devices. If records of the methods used are not available, REX must review and submit a revised procedure detailing the method that is to be used for consideration of the IR drop and provide the procedure to PHMSA for review and approval.
 - ii. Within **90** days of receipt of the Final Order, submit to the Director, PHMSA Central Region, records demonstrating in sufficient detail the adequacy of corrosion control measures at all locations where CP monitoring was affected by the delayed waveform response of AC mitigation devices. If the adequacy of the corrosion control and cathodic protection monitoring cannot be verified in areas of AC mitigation, REX shall submit to PHMSA a plan and schedule to perform a survey of areas of where current is discharged from AC mitigation devices in accordance with its updated procedures. The results of the completed survey are to be provided to PHMSA no later than **180** days of receipt of the Final Order.

- iii. Any findings, deficiencies, or concerns found as a result of B.i. or B.ii above shall be submitted to the Director, PHMSA Central Region within **30** days of their discovery, and shall include a plan and schedule for timely corrective action.
- C. In regard to Item 6 of the Notice, pertaining to the use of aerial patrols at locations where tree canopy and vegetation did not allow for adequate observation of the ROW, REX must perform an adequate patrol at each location cited in the Notice, utilizing an appropriate means, within **60** days of receipt of the Final Order.
- D. It is requested that REX maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central 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.