

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

**VIA ELECTRONIC MAIL TO: tkarry@efgroupllc.com; ppowers@efgroupllc.com;
jborphv@efgroupllc.com**

April 18, 2024

Mr. Todd Karry
President & CEO
Centra Pipeline Minnesota Inc.
33717 Woodward Ave. #600
Birmingham, MI 48009

CPF 3-2024-044-NOPV

Dear Mr. Karry:

From August 28 to August 31, 2023, representatives of the Minnesota Office of Pipeline Safety, acting as a interstate 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 Centra Pipeline Minnesota Inc.'s (CPM) records and facilities in northern Minnesota.

As a result of the inspection, it is alleged that CPM 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. § 191.17 Transmission systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Annual report.**

(a) Pipeline systems – (1) Transmission, offshore gathering, or regulated onshore gathering. Each operator of a transmission, offshore gathering, or regulated onshore gathering pipeline system must submit an annual report for that system on DOT

Form PHMSA F 7100.2-1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

CPM did not file a complete annual report for calendar year 2022, in accordance with § 191.17. Specifically, during the Minnesota Office of Pipeline Safety's (MNOPS) review of CPM's 2022 annual report, it was determined that parts B1 and T of DOT Form PHMSA F 7100.2-1, "HCA Miles by Determination Method and Risk Model Type," were not filled out within the specified time-frame. On December 11, 2023, CPM resubmitted the annual report with both sections completed, which was after the deadline of "March 15, for the preceding calendar year".

2. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a)

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

CPM did not have any procedures for addressing § 192.710, "Transmission lines: Assessments outside of high consequence areas," which became effective July 1, 2020. Specifically, during MNOPS's inspection, it was noted that CPM had a Class 3 area just outside of the Baudette, Minnesota, airport operating above the 30 percent specified minimum yield strength (SMYS) which was not already part of a high consequence area (HCA). As a result, CPM should have created procedures for assessments to address these Class 3 areas that were not part of the HCAs, pursuant to § 192.710(a)(1).

3. § 192.616 Public awareness.

(a)

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

CPM did not follow the general program recommendations of API RP 1162, as required by § 192.616(c). Specifically, CPM did not have any records to demonstrate that they followed Section 8.4 of API RP 1162 for measuring program effectiveness. There are four effectiveness measures required: (1) "Outreach," (2) "Understandability of the Content," (3) "Desired Behaviors by the Intended Stakeholder Audience," and (4) "Achieving Bottom-Line Results." None of these measures were done in accordance with API RP 1162. CPM's effectiveness procedure "DPPA-PRO-001" did not include the four measures from API RP 1162, nor did it include the API RP 1162 requirement that the effectiveness study be done every four years. CPM stated during MNOPS's inspection that it did not conduct the effectiveness evaluation and did not document any justification as to why the recommended practice was not practicable and not

necessary for safety. Thus, CPM failed to meet the requirements of § 192.616(c).

4. § 192.624 Maximum allowable operating pressure reconfirmation: Onshore steel transmission pipelines.

(a)

(b) *Procedures and completion dates.* Operators of a pipeline subject to this section must develop and document procedures for completing all actions required by this section by July 1, 2021. These procedures must include a process for reconfirming MAOP for any pipelines that meet a condition of § 192.624(a), and for performing a spike test or material verification in accordance with §§ 192.506 and 192.607, if applicable. All actions required by this section must be completed according to the following schedule:....

CPM did not have any procedures to address § 192.624, which became effective on July 1, 2020. During the inspection, it was found that CPM had line segments that are in HCAs and Class 3 segments in the International Falls, Minnesota, area, and around the Baudette, Minnesota airport. These areas fall under the applicability section for MAOP reconfirmation. Therefore CPM must have procedures to address the requirements of § 192.624.

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 \$ 20,400 as follows:

Item number
3

PENALTY
\$ 20,400

Proposed Compliance Order

With respect to Items 2, 3, and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to CPM. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 1, 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.

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 3-2024-044-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

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

cc: Phillip Powers, Director Pipeline Operations, ppowers@efgroupllc.com
Joe Brophy, VP/General Manager, jborphy@efgroupllc.com

PROPOSED COMPLIANCE ORDER

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

- A. In regards to Item 2 of the Notice, pertaining to the failure to have procedures addressing § 192.710, CPM must create and incorporate the procedures into its Operation and Maintenance manuals, and provide the procedures to PHMSA, Office of Pipeline Safety, Central Region Director, within **90 days** of receipt of the Final Order.
- B. In regard to Item 3 of the Notice, pertaining to the failure to follow the general program recommendations of API RP 1162 for measuring effectiveness of the Public Awareness Program, CPM must revise procedure DPPA-PRO-001 to include the four measures for effectiveness in accordance with section 8.4 of API RP 1162, as well as include the four year time requirement to conduct the study. CPM must complete this within **90 days** of the receipt of the Final Order. CPM must also conduct an evaluation of the effectiveness of the Public Awareness Program within **90 days** of receipt of the Final Order. Both the revised procedures and completed effectiveness evaluation must be provided to PHMSA, Office of Pipeline Safety, Central Region Director, within **90 days** of receipt of the Final Order.
- C. In regard to Item 4 of the Notice, pertaining to the failure to have procedures to address § 192.624, CPM must create and incorporate the procedures into its Operation and Maintenance manuals within **90 days** of receipt of the Final Order. Additionally, CPM must do the following:
 - i. Provide a list of all line segments applicable to § 192.624;
 - ii. Provide any hydrostatic records that would apply under § 192.624(a)(1);
 - iii. Provide a schedule of when the reconfirmation of the line segment(s) will occur; and
 - iv. Provide the method the company plans to utilize to reconfirm the pipe.

This information must be provided within **120 days** of receipt of the Final Order to PHMSA, Office of Pipeline Safety, Central Region Director.

- D. It is requested that CPM 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.