

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

VIA ELECTRONIC MAIL TO: Chris.vodicka@bp.com; scott.fitzgerald@bp.com

December 4, 2024

Chris Vodicka
Vice President
BP Oil Pipeline Company
30 S. Wacker Drive
Chicago, IL, 60606

CPF 3-2024-058-NOPV

Dear Mr. Vodicka:

From October 14 to 18, 2023, 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 BP Oil Pipeline Company (BP) pipeline facility located in Ohio and Kentucky.

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 item inspected and the probable violation is:

- 1. § 195.412 Inspection of rights-of-way and crossings under navigable waters.**
 - (a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.**

BP failed to properly inspect its right-of-way (ROW), per the requirements of § 195.412(a), due to BP's failure to maintain the vegetation in the ROW, which made adequate inspection impossible. Specifically, BP did not adequately clear its ROW in a manner that allowed for inspection of the pipeline by walking, driving, flying or other appropriate means. During PHMSA's inspection, inspectors observed that the ROW was not properly cleared near the

Regency Apartments in Cincinnati, Ohio (pipeline segment Brom TN Ave BOCI 6"). The ROW could not be observed by air nor was it able to be patrolled by foot due to the dense vegetation.

BP provided PHMSA its Ground Patrol Report Form, "Form #F-195.412(a) GP," for multiple patrols conducted from December 31, 2021 to January 8, 2024 for the pipeline segment Brom TN Ave BOCI 6".¹ On all provided Form #F-195.412(a) GP, BP stated in response to Item 14 that there was excessive vegetation, which might impede inspection and/or maintenance. Thus, the ground patrol reports showed that BP was aware of the excessive vegetation issue and noted that it may affect its ability to inspect and maintain the pipeline since December 2021. Therefore, due to BP's failure to properly maintain its ROW, BP failed to properly inspect its ROW, per the requirements of § 195.412(a).

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 documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order

With respect to Item 1, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to BP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

¹ BP conducts individual patrols on this segment every two weeks.

Response to this Notice

This Notice is issued in accordance with 49 C.F.R. § 190.207(c). You must respond as set forth below.

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 3-2024-058-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: Scott Fitzgerald, DOT Compliance Advisor, BP OIL PIPELINE CO
scott.fitzgerald@bp.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice, pertaining to BP's failure to properly inspect its right-of-way (ROW), BP must:
 - 1. Develop a plan to clear the ROW for the patrol area known as Pipeline Segment Brom TN Ave BOCI 6 located within the City of Cincinnati, Ohio and submit this to Gregory A. Ochs, Director of Central Region for review and approval within **30** days of receipt of the Final Order. Within **120 days** of approval of the plan, BP must submit evidence of proper clearing of the referenced section along with the most recent Ground Patrol Report Form #F-195.412(a) GP for this section demonstrating that a successful patrol was performed.
 - 2. Review the effectiveness of its procedures and personnel performing the procedures regarding the patrol of its ROW. This review shall examine the communication between personnel responsible for the scheduling of clearing and those that are performing patrols, as well as local technicians that frequently travel the right of way to ensure that all parties are aware of signs of deficient conditions. Documentation of this review and any revised procedures shall be submitted to Gregory A. Ochs, Director of Central Region for review and approval within 60 days of receipt of the Final Order.
- B. It is requested that BP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director of 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.