



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

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL TO: tom.long@energytransfer.com

October 4, 2024

Thomas Long
Chief Executive Officer
Energy Transfer, LP
8111 Westchester Drive
Dallas, Texas 75225

CPF 4-2024-037-NOPV

Dear Mr. Long:

From April 11 through September 29, 2023, of the onsite inspection, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected Transwestern Pipeline Company, LLC's (Transwestern) interstate natural gas transmission pipeline in Arizona, Colorado, New Mexico, and Texas.¹

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

1. § 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

Transwestern failed to give notice in accordance with § 191.5(b) of each incident defined in § 191.3, at the earliest practicable moment following discovery, but no later than one hour after

¹ Transwestern Pipeline Company, LLC, is a subsidiary of Energy Transfer, LP.

confirmed discovery in accordance with § 191.5(a).² Specifically, Transwestern failed to notify the National Response Center (NRC) of four incidents at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery.

On April 7, 2020, at 7:00 a.m. (CDT), Transwestern identified a reportable incident at Maljamar Compressor Station on the West Texas pipeline segment due a stuck open relief valve. Transwestern notified the NRC at 2:03 p.m. (CDT), approximately 7 hours after Transwestern identified the incident.

On October 19, 2020, at 6:00 a.m. (CDT), Transwestern identified a reportable incident at WT-1 Carlsbad Compressor Station on the West Texas pipeline segment due to a malfunctioning relieve valve. Transwestern notified the NRC at 7:44 a.m. (CDT), approximately 1.75 hours after Transwestern identified the incident.

On June 19, 2021, at 11:50 p.m. (CDT), Transwestern identified a reportable incident at Compressor Station 6 on the Thoreau East pipeline segment due to a malfunctioning relief valve. Transwestern notified the NRC on June 20, 2021, at 5:44 a.m., approximately 6 hours after Transwestern identified the incident.

On December 18, 2022, at 7:30 p.m. (CDT), Transwestern identified a reportable incident at Compressor Station 5 on the Thoreau East pipeline segment due to a malfunctioning relief valve. Transwestern notified the NRC at 10:31 p.m., approximately 3 hours after Transwestern identified the incident.

Therefore, Transwestern failed to give notice of each incident defined in § 191.3, at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery in accordance with § 191.5(a).

2. § 192.467 External corrosion control: Electrical isolation.

(a)

(b) One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

Transwestern failed to install one or more insulating devices where electrical isolation of a portion of pipeline is necessary to facilitate the application of corrosion control in accordance with § 192.467(b). Specifically, Transwestern failed to install an isolation kit at the line of demarcation at Dairy Concepts custody delivery transfer point to ensure electrical isolation.

The PHMSA inspector found that the isolation kit was installed further upstream on Transwestern's pipeline and not installed at the actual line of demarcation between Transwestern and Dairy Concepts pipelines. Because the isolation kit was not installed at the correct transfer

² Section 191.5(b) requires notice be made to the National Response Center by telephone or electronically, and include specific information in accordance with § 191.5(b)(1) through (5).

point, Transwestern could not ensure electrical isolation of the portion of its pipeline between the actual line of demarcation and the isolation kit.

Therefore, Transwestern failed to install insulating device where electrical isolation of the pipeline is necessary to facilitate the application of corrosion control in accordance with § 192.467(b).

3. § 192.479 Atmospheric corrosion control: General.

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

Transwestern failed to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere in accordance with § 192.479(a). Specifically, Transwestern failed to clean and coat the pipeline exposed to the atmosphere at the Dairy Concepts metering station.

PHMSA observed exposed pipe at the Dairy Concepts metering station that had not been cleaned and coated to protect against atmospheric corrosion. Therefore, Transwestern failed to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere in accordance with § 192.479(a).

4. § 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect and evaluate each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

Pipeline type:	Then the frequency of inspection is:
(1) Onshore other than a Service Line	At least once every 3 calendar years, but with intervals not exceeding 39 months.
(2) Onshore <u>Service Line</u>	At least once every 5 calendar years, but with intervals not exceeding 63 months, except as provided in paragraph (d) of this section.
(3) <u>Offshore</u>	At least once each calendar year, but with intervals not exceeding 15 months.

(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.

Transwestern failed to inspect and evaluate each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 192.481(a) and (b) and its procedure, *Standard Operating Procedure (SOP), Atmospheric Corrosion Inspection* (Rev. June 30, 2023). Specifically,

Transwestern failed to inspect under thermal insulation at the Atoka 2 Compressor station in 2018 and 2021.

Transwestern's procedure, section 7.1 Coating Inspection, requires inspection under pipe insulation, including using proven and accepted methods to inspect under insulation if it is impractical to remove it, and consideration to establish permanent inspection ports to facilitate inspection without insulation removal. During the field inspection of the Atoka 2 Compressor station, PHMSA observed pipe that was thermally insulated pipe without inspection ports installed. Transwestern could not provide documentation showing that the pipe had been inspected for atmospheric corrosion under the insulation in 2018 and 2021, in accordance with § 192.479(a) and Transwestern's procedure.

Therefore, Transwestern failed to inspect each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 192.481(a) and (b) and its procedure.

5. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(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)

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

Transwestern failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in accordance with § 192.605(a). Specifically, Transwestern failed to periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modify the procedures when deficiencies are found in accordance with § 192.605(b)(8), section 4.0 of Transwestern's procedure, *Guiding Principles for Standard Operating Procedures, A-HLA.02* (effective, Sept. 1, 2023).

Additionally, Transwestern provided its procedure, *Standard Operating Procedure (SOP) A.18, Operator Qualification Plan* (effective, June 1, 2013), which requires annual Work History Reviews for employees, including review of the adequacy and effectiveness of SOPs used in the performance of tasks, and provides that employees may recommend a change in accordance with section 7.6 of that procedure. Transwestern also provided records of previous Work History Reviews. However, the Work History Review records failed to show that Transwestern conducted a review of the work performed by its employees for the purpose of determining whether its procedures themselves were effective and adequate and modifying when necessary.

Therefore, Transwestern failed to provide records showing that periodic reviews of the work performed by personnel were conducted to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found in accordance with § 192.605(b)(8).

6. § 192.736 Compressor stations: Gas detection.

(a) Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system, unless the building is-

(1) Constructed so that at least 50 percent of its upright side area is permanently open; or

(2) Located in an unattended field compressor station of 1,000 horsepower (746 kilowatts) or less.

Transwestern failed to install fixed gas detection and alarm system in each compressor building in a compressor station in accordance with § 192.736(a). Specifically, Transwestern failed to install an alarm system at Atoka 1 and Atoka 2 Compressor station buildings that each have less than 50 percent of its upright side area permanently open.

PHMSA did not observe any alarm systems installed at Atoka 1 and Atoka 2 compressor station buildings. Transwestern stated that Atoka 1 & Atoka 2 compressor station buildings did not have any visual or audible alarm system in place that would warn persons about to enter or persons inside the compressor station buildings.³ Transwestern stated that it relies on calls from the control room in Houston, Texas, to notify of hazardous situations at the compressor stations in Artesia, New Mexico.

Therefore, Transwestern failed to install fixed gas detection and alarm system in each compressor building in a compressor station in accordance with § 192.736(a).

³ Section 192.736(b) requires that each gas detection and alarm system must continuously monitor for gas and, if detected, warn persons about to enter the building and persons inside the building of the danger.

7. § 192.736 Compressor stations: Gas detection.

(a)

(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must-

(1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and

(2) If that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger.

Transwestern's gas detection and alarm system required by § 192.736 failed to warn persons about to enter the building and persons inside the building of a concentration of gas in air of not more than 25 percent of the lower explosive limit (LEL) in accordance with §192.736(b)(1) and (b)(2). Specifically, at a gas concentration of 25 percent LEL, the gas detection and alarm system at the West Texas-2 (WT-2) compressor building failed to actuate an audible or visual alarm.

During the field inspection at the WT-2 compressor station building, Transwestern performed a test of the gas detection and alarm system. The Transwestern technician isolated the gas detection system to allow for testing without service disruption and used calibration gas to trigger the alarm system at 25 percent LEL. However, the test did not actuate an audible or visual alarm at a gas concentration of 25 percent LEL or less, or turn on any building ventilation fans and/or louvers. The gas detection and alarm system testing records for calendar years 2020 through 2022 failed to document proper functioning of the audible and visual alarms associated with gas detection.

Therefore, Transwestern's gas detection and alarm system failed to warn persons about to enter the building and persons inside the building of a concentration of gas in air of not more than 25 percent of the LEL in accordance with § 192.736(b).

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 \$176,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 25,300
3	\$ 35,300
4	\$ 35,300
6	\$ 41,700
7	\$ 39,100

Proposed Compliance Order

With respect to items 3, 4, 5, 6 and 7 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Transwestern Pipeline Company, LLC. Please refer to the Proposed Compliance Order, which is enclosed and made a part of this Notice.

Warning Item

With respect to item 2 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 4-2024-037-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: Greg McIlwain, Executive Vice President, Operations, Energy Transfer LP,
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PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 3 of the Notice pertaining to Transwestern's failure to provide protection against atmospheric corrosion, Transwestern must clean and coat the exposed pipe at its Dairy Concepts meter stations in accordance with the requirements of § 192.479(a), and provide records, including photographs, to the Director, Southwest Region, PHMSA within **90** days of receipt of the Final Order.
- B. In regard to Item 4 of the Notice pertaining to Transwestern's failure to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, with intervals not exceeding 39 months, giving particular attention to pipe under thermal insulation in accordance with § 192.481(a) and (b), Transwestern must identify all jurisdictional pipelines with thermal insulation. If permanent inspection ports are installed, Transwestern must provide PHMSA with pictures of the permanent inspection ports and the last two cycles of atmospheric corrosion inspections that specifically detail the condition of the pipe underneath the thermal insulation. If permanent inspection ports are not installed, Transwestern must follow its procedure and remove insulation or install permanent inspection ports at identified corrosion monitoring locations. After installation of the permanent inspection ports, Transwestern must conduct atmospheric corrosion inspections of those pipelines and provide those records, including permanent inspection port installation records and pictures, to the Director, Southwest Region, PHMSA within **120** days of issuance of the Final Order.
- C. In regard to Item 5 of the Notice pertaining to Transwestern's failure to periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found in accordance with § 192.605(b)(8), Transwestern must conduct reviews of work performed by personnel to determine the effectiveness of the procedures used in normal operation and maintenance and take corrective action where deficiencies are found and provide documentation of the effectiveness reviews to the Director, Southwest Region, PHMSA within **60** days of receipt of the Final Order.
- D. In regard to Item 6 of the Notice pertaining to Transwestern's failure to install a fixed gas detection and alarm system at each compressor building in a compressor

station in accordance with § 192.736(a), Transwestern must install a gas detector and alarm system at the Atoka 1 and Atoka 2 compressor station buildings, conduct testing of each gas detector and alarm system after installation for proper operation, provide records documenting installation and testing of the systems, and a copy of Transwestern's procedure for testing the alarm systems to the Director, Southwest Region, PHMSA within **60** days of receipt of the Final Order.

- E. In regard to Item 7 of the Notice pertaining to Transwestern's failure to warn persons about to enter and persons inside a compressor station building of the danger of the concentration of gas in air of not more than 25 percent of the lower explosive limit (LEL) in accordance with § 192.736(b), Transwestern must repair or replace the gas detection and alarm system at the West Texas-2 (WT-2) compressor building, conduct a satisfactory alarm system test of the gas detection and alarm system in accordance with the requirements of § 192.736(b), and provide records documenting the repair or replacement and the results of the test to the Director, Southwest Region, PHMSA within **60** days of receipt of the Final Order.
- F. It is requested (not mandated) that Transwestern Pipeline Company, LLC, maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, Director, Southwest 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.