

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

VIA ELECTRONIC MAIL TO: eluebke@transmontaigne.com

December 6, 2024

Mr. Edward Luebke
V.P. of Pipeline Operations
TransMontaigne Operating Company L.P.
1670 Broadway, Ste. 3100
Denver, CO 80202

CPF 5-2024-039-NOPV

Dear Mr. Luebke:

From April 8 through May 10, 2024, a representative of the California Public Utilities Commission (CPUC), on behalf 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 Transmontaigne Operating Company L.P.'s (Transmontaigne) Martinez natural gas distribution pipeline in Martinez, California.

As a result of the inspection, it is alleged that Transmontaigne 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. § 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.

Transmontaigne failed to include in its manual a procedure for operating, maintaining, and repairing the pipeline in accordance with each requirement in Subpart L. Specifically, at the time of inspection, CPUC reviewed Transmontaigne's Operation, Maintenance, and Emergency Procedure Manual. However, the manual did not have procedures for gas odorization required by § 192.625 - Odorization of Gas.¹

Therefore, TransMontaigne failed to include in its Operation, Maintenance, and Emergency Procedure Manual a procedure related to odorization of gas and is in violation of § 192.625.

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 Transmontaigne Operating Company L.P. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

¹ See, Exhibit A1, Transmontaigne Operating Company L.P. 6" PG&E Operations, Maintenance and Emergency Procedures Manual.

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 5-2024-039-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 T. Dickey (#24-297378)

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to Transmontaigne's failure to include in its Manual a written procedures related to odorization of gas, Transmontaigne must complete the following items within 90 days of receipt of the Final Order and submit this documentation to the Director, Western Region:
 - 1) Prepare and follow a written procedures for the odorization of gas and methods for testing, in compliance with the requirements stated in § 192.625 - Odorization of Gas,
 - 2) Ensure that the written procedure includes a form to document that periodic gas sampling has been conducted using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. The form should include the name of the person who conducted the test and indicate whether the test passed or failed in accordance with the written procedure.

- B. It is requested (not mandated) that Transmontaigne maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.