



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

901 Locust Street, Suite 462
Kansas City, MO 64106-2641

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 4, 2015

Mr. George Grau
Vice President - Operations Crude and NGL
Crestwood Dakota Pipeline LLC
807 Cherry Street Suite 3800, Unit 20
Fort Worth, TX 76102

CPF 3-2015-5001M

Dear Mr. Grau:

On August 26 through 28, 2014, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) Central Region pursuant to Chapter 601 of 49 United States Code inspected the Pipeline Control Room Management (CRM) Plan, in Epping, North Dakota.

On the basis of the inspection, PHMSA has identified apparent inadequacies found within Crestwood Dakota Pipeline LLC plans or procedures, as described below:

1) §195.446(a) General

General. This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate, with the operator's written procedures required by § 195.402. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b),

(c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

Crestwood Dakota Pipeline did not have adequate procedures to review and identify control rooms applicable to this regulation.

2) §195.446(a) – See above

§195.446(b) Roles and responsibilities

Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

- (1) A controller's authority and responsibility to make decisions and take actions during normal operations;**

Crestwood Dakota Pipeline did not have adequate procedures to protect the controller's consoles from use by unqualified personnel.

3) §195.446(a) – See above

§195.446(b) Roles and responsibilities

Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

- (3) A controller's role during an emergency, even if the controller is not the first to detect the emergency, including the controller's responsibility to take specific actions and to communicate with others; and**

- a) Crestwood Dakota Pipeline did not have adequate procedures to address control room evacuation and the ability to either continue operations or shut down of the pipeline in the event of an evacuation.

- b) Crestwood Dakota Pipeline did not have adequate procedures to address the operation of the pipeline during loss of communication. The procedures did not define when the pipeline would be shut down or operated manually without SCADA communication.

4) §195.446(a) – See above

§195.446(b) Roles and responsibilities

Each operator must define the roles and responsibilities of a controller during normal, abnormal, and emergency operating conditions. To provide for a controller's prompt and appropriate response to operating conditions, an operator must define each of the following:

- (4) **A method of recording controller shift-changes and any hand-over of responsibility between controllers.**

Crestwood Dakota Pipeline did not have adequate procedures to address temporarily unattended consoles by qualified personnel during short breaks.

5) §195.446(a) – See above

§195.446(c) Provide adequate information

Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

- (2) **Conduct a point-to-point verification between SCADA displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays.**

- a) Crestwood Dakota Pipeline did not have adequate procedures to defining safety related points and which devices are safety related points.
- b) Crestwood Dakota Pipeline did not have adequate procedures to address the thoroughness required for a point-to-point survey.

6) §195.446(a) – See above

§195.446(d) Fatigue mitigation

Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:

- a) Crestwood Dakota Pipeline did not have adequate procedures that define who the responsible person is to manage Hours-of-Service (HOS) and fatigue countermeasures.
- b) Crestwood Dakota Pipeline did not have adequate procedures to address deviations from maximum HOS for emergency situations.

7) §195.446(a) – See above

§195.446(e) Alarm management

(1) Review SCADA safety-related alarm operations using a process that ensures alarms are accurate and support safe pipeline operations;

- a) Crestwood Dakota Pipeline procedures did not adequately identify the safety-related alarms the same as they were designated in the SCADA system.
- b) Crestwood Dakota Pipeline did not have adequate procedures to address stale data. The procedure should define stale data and what to do with that data.

8) §195.446(a) – See above

§195.446(e) Alarm management

(3) Verify the correct safety-related alarm set point values and alarm descriptions when associated field instruments are calibrated or changed and at least once each calendar year, but at intervals not to exceed 15 months;

- a) Crestwood Dakota Pipeline did not have adequate procedures to address the review of set points and determine if they are set to function correctly.
- b) Crestwood Dakota Pipeline did not have adequate procedures to address the controller's ability to establish administrative set points and alarms, nor did they define the extent of those set point and alarms.

9) §195.446(a) – See above

§195.446(e) Alarm management

(4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan;

Crestwood Dakota Pipeline did not have adequate procedures to address what persons will perform the procedure review and how the effectiveness review will be accomplished.

10) §195.446(a) – See above

§195.446(e) Alarm management

(5) Monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months,

Crestwood Dakota Pipeline did not have adequate procedures to address how work load assessments will be performed.

11) §§195.446(a) – See above

195.446(e) Alarm management

(6) Address deficiencies identified through the implementation of paragraphs (e)(1) through (e)(5) of this section.

Crestwood Dakota Pipeline did not have adequate procedures to address who is responsible for addressing the deficiencies identified in the review and how deficiencies will be corrected and documented.

12) §195.446(a) – See above

§195.446(g) Operating Experience

(2) Include lessons learned from the operator's experience in the training program required by this section.

Crestwood Dakota Pipeline did not have adequate procedures for incorporating lessons learned for events that did not result in a DOT reportable incident.

13) §195.446(a) – See above

§195.446(h) Training

Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator.

- a) Crestwood Dakota Pipeline did not have adequate written procedures for the controller training program.
- b) Crestwood Dakota Pipeline did not have an adequate procedure that identified who is responsible for reviewing the training program and for making improvements.
- c) Crestwood Dakota Pipeline did not have adequate procedures that addressed abnormal situations that may occur sequentially or simultaneously.
- d) Crestwood Dakota Pipeline did not have adequate procedures for infrequent operations.

14) §195.446(a) – See above

§195.446(i) Compliance Validation

Upon request, operators must submit their procedures to PHMSA or, in the case of an intrastate pipeline facility regulated by a State, to the appropriate State agency.

Crestwood Dakota Pipeline did not have adequate procedures that defined the roles of the personnel responding to regulatory agency requests.

15) §195.446(a) – See above

§195.446(j) Compliance and deviations

(2) Address deficiencies identified through the implementation of paragraphs (e)(1) through (e)(5) of this section.

Crestwood Dakota Pipeline did not have adequate procedures that required documentation of any deviations from the CRM plan and that deviations can only be performed when it is required for the safe operation of the pipeline.

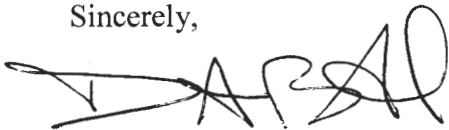
Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being 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). If you do not respond within thirty (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.

In correspondence concerning this matter, please refer to **CPF 3-2015-5001M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Subsequent to PHMSA's inspection, Crestwood Dakota Pipeline LLC provided revised procedures. Central Region personnel have reviewed the revised procedures and determined that the revisions satisfy the deficiencies identified in all of the above items. Therefore, no further action is required and this enforcement action is considered closed.

Sincerely,



for Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*

Response Options for Pipeline Operators in Enforcement Proceedings

The provisions of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.243) govern response options to enforcement actions initiated by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA). You are advised to consult Subpart B for further information regarding your rights and responsibilities in such proceedings.

Be advised that all material submitted by a respondent in response to an enforcement action is subject to being 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).

I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

a. When the Notice contains a PROPOSED CIVIL PENALTY* --

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;
2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum civil penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based;

3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.
5. Before or after responding in accordance with this section, you may request a copy of the Violation Report from the Regional Director.

b. When the Notice contains a **PROPOSED COMPLIANCE ORDER*** --

1. If you are not contesting the proposed compliance order and the alleged violations associated with it, notify the Regional Director that you intend to take the actions in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

Before or after responding in accordance with this section, you may request a copy of the Violation Report from the Regional Director.

c. When the Notice contains a **WARNING ITEM** --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice and/or submit copies of your amended procedures;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;
- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

III. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the regulatory requirement or factual basis for the allegations, to the proposed compliance order, or to the proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$25,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV. **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V. **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why you believe the documents, or portions of a document, qualify for confidential treatment under 5 U.S.C. 552(b). If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. **The Rights of Small Entities to Enforcement Fairness and Policy Against Retaliation**

The Department of Transportation has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights. Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact the PHMSA Office of Chief Counsel. You also have the right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of this agency.

The Department of Transportation strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

VII. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faq.html.

VIII. **Payment Instructions**

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AMK-325) P.O. Box 269039
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> 69140001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

Block #7 - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "69140001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

NOTE: A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8845 at the time you send the wire transfer.

April 22, 2014