



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

May 11, 2015

Mr. Robert A. Richard
Senior Vice President Gas Operations
DTE Gas Company
One Energy Plaza
Detroit, Michigan 48226

CPF 3-2015-1003M

Dear Mr. Richard:

On December 1-5, 2014, representatives of the Michigan Public Service Commission (MIPSC) acting as an interstate agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected DTE Gas Company's (DTE) Integrity Management and Operator Qualification procedures for the Vector/DTE pipeline in Michigan.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within DTE's plans or procedures, as described below:

1. §192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

DTE's Operator Qualification procedures did not include a thorough evaluation for the hot tap qualification task. DTE's qualification only requires a knowledge based test. For hot taps, a performance or simulation test must be included in the evaluation.

2. 192.911 What are the elements of an integrity management program?

An operator's initial integrity management program begins with a framework (see § 192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program. The initial program framework and subsequent program must, at minimum, contain the following elements. (When indicated, refer to ASME/ANSI B31.8S [incorporated by reference, see § 192.7] for more detailed information on the listed element.)

(c) An identification of threats to each covered pipeline segment, which must include data integration and a risk assessment. An operator must use the threat identification and risk assessment to prioritize covered segments for assessment (§192.917) and to evaluate the merits of additional preventive and mitigative measures (§192.935) for each covered segment.

§192.917(c) requires that an operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§192.919, §192.921, §192.937), and to determine what additional preventive and mitigative measures are needed (§192.935) for the covered segment.

DTE's Integrity Management (IM) plan identifies incorrect operations as a threat to the pipeline in section 4.2.1 on page 9. However, in the comments section, the plan indicates that incorrect operations is managed through other means and not considered in risk ranking or assessments. The plan should always consider incorrect operations in the risk ranking and define what other means are used to manage this risk.

3. §192.911 What are the elements of an integrity management program? (See above)

(c) An identification of threats to each covered pipeline segment, which must include data integration and a risk assessment. An operator must use the threat identification and risk assessment to prioritize covered segments for assessment (§ 192.917) and to evaluate the merits of additional preventive and mitigative measures (§ 192.935) for each covered segment.

§192.917(e)(5) indicates that if an operator identifies corrosion on a covered pipeline segment that could adversely affect the integrity of the line (conditions specified in §192.933), the operator must evaluate and remediate, as necessary, all pipeline segments (both covered and non-covered) with similar material coating and environmental characteristics. An operator must establish a schedule for evaluating and remediating, as necessary, the similar segments that is consistent with the operator's established operating and maintenance procedures under part 192 for testing and repair.

DTE's IM plan considers corrosion as an integrity threat to its pipeline. However, the IM plan did not contain any procedures for addressing corrosion.

4. §192.911 What are the elements of an integrity management program? (See above)

(e) Provisions meeting the requirements of §192.933 for remediating conditions found during an integrity assessment.

§192.933(d)(1) requires that for immediate repair conditions. An operator's evaluation and remediation schedule must follow ASME/ANSI B31.8S, section 7 in providing for immediate repair conditions.

DTE's IM procedures did not indicate that all indications of stress corrosion cracks (SCC) require an immediate action. ASME B.318S-2004 states that "All indications of stress corrosion cracks require immediate response." Section 7.1 of 13-SWI-011-0053 of the DTE IM plan defines the specifications for an immediate repair. SCC was not included in this procedure.

5. §192.911 What are the elements of an integrity management program? (See above)

(f) A process for continual evaluation and assessment meeting the requirements of §192.937.

§192.937(b) requires valuation that the operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in §192.917. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in §192.917(d). For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§192.917), and decisions about remediation (§192.933) and additional preventive and mitigative actions (§192.935). An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats.

DTE needs more specific procedures for continual evaluation in Section 7 of their IM plan. Review of the continual evaluation and assessment of time dependent threats found that the documentation of this evaluation was not well organized. The procedures should define what is being reviewed, who is to review it, how this will be documented, and the results of the evaluation.

6. §192.911 What are the elements of an integrity management program? (See above)

(h) Provisions meeting the requirements of §192.935 for adding preventive and mitigative measures to protect the high consequence area.

§192.935(a) General requirements – requires that an operator must take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment.

DTE needs more specific procedures to determine which preventative and mitigative (P&M) measures should be implemented. In Section 9 of the DTE IM Plan, it states that the field supervisor will review (or select) the P&M measure(s) for any threat that does not have a “Low Level.” However, the procedure does not define “Low Level” and as such, it is not clear as to what requires P&M measures and what does not.

7. §192.911 What are the elements of an integrity management program? (See above)

(h) Provisions meeting the requirements of §192.935 for adding preventive and mitigative measures to protect the high consequence area.

§192.935(b) Third party damage and outside force damage requires that an operator must enhance its damage prevention program, as required under §192.614 of this part, with respect to a covered segment to prevent and minimize the consequences of a release due to third party damage.

DTE determined that the pipeline is not susceptible to outside force damage (e.g., earth movement, floods, unstable suspension bridges). However, the risk model does calculate a value for this potential risk. The procedure does not specify when the risk value is high enough to warrant additional P&M measures. This guidance should be included in the procedure.

8. §192.911 What are the elements of an integrity management program? (See above)

(j) Record keeping provisions meeting the requirements of §192.947.

§192.947(a) requires that an operator maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.

(a) A written integrity management program in accordance with §192.907;

DTE’s procedures in Section 11.0 do not indicate that P&M records will be kept for the life of the pipeline. For instance, the bimonthly aerial patrols that DTE is performing for §192.935(a) need to be kept for the life of the pipeline. DTE personnel indicated that these would be kept for 5 years and that is what is written in the binder where these are housed. This should be changed to the useful life of the facility and added to the IM manual.

9. §192.911 What are the elements of an integrity management program? (See above)

(k) A management of change process as outlined in ASME/ANSI B31.8S, section 11.

Section 12 of the DTE IM plan does not define how the management of change process will be documented. Additionally, the IM plan does not state that the following are to be provided as required by Section 11 of ASME B.31.8S:

- 1) Authority for approving changes;
- 2) Analysis of implications;
- 3) Acquisition of required work permits;
- 4) Communication of the change to affected parties, time limitations;
- 5) Qualification of staff

10. §192.911 What are the elements of an integrity management program? (See above)

(l) A quality assurance process as outlined in ASME/ANSI B31.8S, section 12.

The procedure located in Section 3.2 of 13-SWI-011-0053_ILI gives internal requirements for DTE employees, but does not state what constitutes qualifications for outside vendors, particularly those who analyze pig data. While the procedure references qualification standards (ANSI/ANST ILI-PQ-2005 and API 1163), there is nothing that specifies the requirement (level) of the analysts.

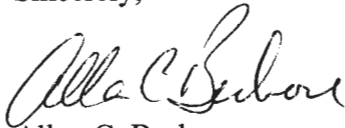
Response to this Notice

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.

If, after opportunity for a hearing, your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 90 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested (not mandated) that DTE Gas Company maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Allan C. Beshore, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2015-1003M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



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 (subject to any outstanding compliance order). 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. PHMSA will consider your submission in deciding whether to reduce or eliminate the penalty 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.

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.

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. **Case File**

Case file documents are available to the respondent of enforcement proceedings per 49 C.F.R. § 190.209. Documents in the case file are provided upon request, if prepared.

VI. **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.

VII. **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.

VIII. **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.

IX. **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.