



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 20, 2013

Mr. Shawn L. Patterson
President
Operations & Project Delivery
Columbia Gas Transmission LLC
1700 MacCorkle Ave., SE
Charleston, WV 25314

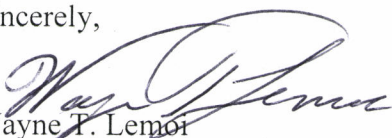
CPF 2-2013-1005S

Dear Mr. Patterson:

Enclosed is a Notice of Proposed Safety Order (Notice) issued in the above-referenced case. The Notice proposes that you take certain measures with respect to your Columbia Gas Transmission LLC (CGT) Line PM-3 pipeline in Kentucky to ensure pipeline safety. Your options for responding are set forth in the Notice. Your receipt of the Notice constitutes service of that document under 49 C.F.R. §190.5.

We look forward to a successful resolution to ensure pipeline safety. Please direct any questions on this matter to me at (404) 832-1160.

Sincerely,


Wayne T. Lemor
Director, Office of Pipeline Safety
PHMSA Southern Region

Enclosures: Notice of Proposed Safety Order and Copy of 49 CFR §190.239

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY**

Southern Region
Atlanta, GA 30303

_____)
In the Matter of)
)
Columbia Gas Transmission LLC)
)
Respondent)
_____)

CPF 2-2013-1005S

NOTICE OF PROPOSED SAFETY ORDER

Background and Purpose

Pursuant to Chapter 601 of title 49, United States Code, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has initiated an investigation of the safety of the Columbia Gas Transmission LLC (CGT) Line PM-3 in Floyd County, Kentucky. CGT is a subsidiary of NiSource Gas Transmission & Storage (NGT&S).

As a result of the investigation it appears that conditions exist on CGT's pipeline facilities that pose a pipeline integrity risk to public safety, property, or the environment. Pursuant to 49 U.S.C. §60117(1), PHMSA issues this Notice of Proposed Safety Order (Notice), notifying you of the preliminary findings of the investigation, and proposing that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

The pipeline facilities that pose a pipeline integrity risk are located in the pipeline section downstream of Mud Creek Valve Site (station 1296+05) of CGT's approximately 30-mile Line PM-3, which originates in Knott County, Kentucky and terminates at the Boldman Compressor Station in Pike County, Kentucky.

CGT's records indicate the pipeline section downstream of Mud Creek Valve Site consists of 20-inch, Grade X-42, coated, welded pipe with a maximum allowable operating pressure (MAOP) of 180 psig.

Preliminary Findings

A mining operation conducted on a hillside in Floyd County, Kentucky caused an unstable landslide condition that resulted in a section of Line PM-3 becoming exposed and buckling.

In April 2012, CGT replaced 1,221 feet of Line PM-3 to remove the buckled pipe. The replacement pipe is 16-inch diameter, above ground pipe. Some of the replacement pipe is coated and some of it is bare. CGT considers it to be a temporary replacement.

Currently, approximately 1,357 feet of Line PM-3 is exposed and lying on (or suspended from) the hillside from approximately station 1406+00 to station 1419+57. The temporary replacement pipe described above is within the exposed section of pipe and runs from station 1407+31 to station 1419+52. CGT has plans to permanently install approximately 2,150 feet of buried replacement pipe along an alternate route.

Proposed Issuance of Safety Order

Section 60117(l) of Title 49, United States Code, provides for the issuance of a safety order requiring corrective measures, which may include physical inspection, testing, repair, or other action, as appropriate, after reasonable notice and the opportunity for a hearing. The basis for making the determination that a pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment is set forth both in the above-referenced statute and 49 CFR §190.239, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the age of the pipe involved, the manufacturer, the hazardous nature of the product transported and the pressure required for transporting such product, the characteristics of the geographical areas where the pipeline facility is located, and the likelihood that the conditions could worsen or develop on other areas of the pipeline and potentially impact its serviceability, it appears that the continued operation of the affected pipeline without corrective measures would pose a pipeline integrity risk to public safety, property, or the environment.

Accordingly, PHMSA issues this Notice of Proposed Safety Order to notify Respondent of the proposed issuance of a safety order and to propose that Respondent take the measures specified herein to address the potential risk.

Response to this Notice

In accordance with §190.239, you have 30 days following receipt of this Notice to submit a written response to the official who issued the Notice. If you do not respond within 30 days, this constitutes a waiver of your right to contest 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 Safety Order. In your response, you may notify that official that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled (you will also have the opportunity to request an administrative hearing before a safety order is issued). Informal consultation provides you with the opportunity to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for a work plan or other remedial measures, without prejudice to your position in any subsequent hearing. If you and PHMSA agree within 30 days of informal consultation on a plan and schedule for you to address each identified risk condition, we may enter into a written consent agreement (PHMSA would then issue an administrative consent order incorporating the terms of the agreement). If a consent agreement is not reached, or if you have elected not to request informal consultation, you may request an administrative hearing in writing within 30 days following receipt of this Notice or within 10 days following the conclusion of an informal consultation that did not result in a consent agreement, as applicable. Following a hearing, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to the public, property, or

the environment in accordance with §190.239, the Associate Administrator may issue a safety order.

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).

In your correspondence on this matter, please refer to **CPF 2-2013-1005S** for each document you submit, please provide a copy in electronic format whenever possible.

Proposed Corrective Measures

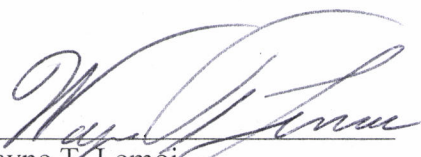
Pursuant to 49 U.S.C. §60117(l) and 49 C.F.R. §190.239, PHMSA proposes to issue to Columbia Gas Transmission LLC (CGT) a safety order incorporating the following remedial requirements with respect to its Line PM-3 in Floyd County, Kentucky:

1. Upon receipt of the safety order CGT shall commence weekly inspections of the exposed section of Line PM-3 and provide the inspection results to CGT engineering personnel for evaluation. CGT must submit monthly summary inspection reports to the Director, Southern Region.
2. Within 30 days after the safety order is issued, CGT shall develop and submit to the Director, Southern Region for approval a work plan to replace all temporary pipe in Line PM-3 within 180 days from the date of the safety order. The Director may approve plan elements incrementally. At a minimum, the work plan must include:
 - a. A milestone schedule to show the key elements required for pipe replacement such as right-of-way (ROW) acquisition, pipe procurement, permits, start of construction, pressure testing, etc.
 - b. The specific pipeline sections to be replaced identified by mile post or stationing.
 - c. The specifications of the pipe to be installed.
 - d. The name, phone number, and email address of CGT's point-of-contact for the pipe replacement project.
3. CGT is to revise the work plan if necessary to incorporate new information obtained during the pipe replacement project and is to submit any such plan revisions to the Director, Southern Region for approval. The Director may approve plan revisions incrementally.
4. Once approved, the work plan and all revisions will become incorporated into the safety order.
5. Beginning 60 days after the safety order is issued, CGT is to prepare and submit monthly progress reports to the Director, Southern Region, with sufficient detail to allow the Director to track the progress of the pipe replacement project and to provide the Director an opportunity to observe and inspect construction activities as they occur.

6. CGT will implement the work plan as it is approved by the Director, including any revisions to the plan.
7. The Director may grant an extension of time for compliance with any of the terms of the safety order upon a written request timely submitted demonstrating good cause for an extension.
8. CGT may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

The actions proposed by this Notice of Proposed Safety Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this proceeding and implementation of the work plan, PHMSA may identify other safety measures that need to be taken. In that event, Respondent will be notified of any proposed additional measures and, if necessary, amendments to the work plan or safety order.


Wayne T. Lemor
Director, Office of Pipeline Safety
PHMSA Southern Region

AUG 20, 2013
Date issued

§ 190.239 Safety orders.

(a) When may PHMSA issue a safety order? If the Associate Administrator, OPS finds, after notice and an opportunity for hearing under paragraph (b) of this section, that a particular pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator may issue an order requiring the operator of the facility to take necessary corrective action. Such action may include physical inspection, testing, repair or other appropriate action to remedy the identified risk condition.

(b) How is an operator notified of the proposed issuance of a safety order and what are its response options? (1) *Notice of proposed safety order.* PHMSA will serve written notice of a proposed safety order under § 190.5 to an operator of the pipeline facility. The notice will allege the existence of a condition that poses a pipeline integrity risk to public safety, property, or the environment, and state the facts and circumstances that support issuing a safety order for the specified pipeline or portion thereof. The notice will also specify proposed testing, evaluations, integrity assessment, or other actions to be taken by the operator and may propose that the operator submit a work plan and schedule to address the conditions identified in the notice. The notice will also provide the operator with its response options, including procedures for requesting informal consultation and a hearing. An operator receiving a notice will have 30 days to respond to the PHMSA official who issued the notice.

(2) *Informal consultation.* Upon timely request by the operator, PHMSA will provide an opportunity for informal consultation concerning the proposed safety order. Such informal consultation shall commence within 30 days, provided that PHMSA may extend this time by request or otherwise for good cause. Informal consultation provides an opportunity for the respondent to explain the circumstances associated with the risk condition(s) identified in the notice and, where appropriate, to present a proposal for corrective action, without prejudice to the operator's position in any subsequent hearing. If the respondent and Regional Director agree within 30 days of the informal consultation on a plan for the operator to address each risk condition, they may enter into a written consent agreement and the Associate Administrator may issue a consent order incorporating the terms of the agreement. If a consent agreement is reached, no further hearing will be provided in the matter and any pending hearing request will be considered withdrawn. If a consent agreement is not reached within 30 days of the informal consultation (or if informal consultation is not requested), the Associate Administrator may proceed under paragraphs (b)(3) through (5) of this section. If PHMSA subsequently determines that an operator has failed to comply with the terms of a consent order, PHMSA may obtain any administrative or judicial remedies available under 49 U.S.C. 60101 *et seq.* and this part. If a consent agreement is not reached, any admissions made by the operator during the informal consultation shall be excluded from the record in any subsequent hearing. Nothing in this paragraph (b) precludes PHMSA from terminating the informal consultation process if it has reason to believe that the operator is not engaging in good faith discussions or otherwise concludes that further consultation would not be productive or in the public interest.

(3) *Hearing.* An operator receiving a notice of proposed safety order may contest the notice, or any portion thereof, by filing a written request for a hearing within 30 days following receipt of the notice or within 10 days following the conclusion of informal consultation that did not result in a consent agreement, as applicable. In the absence of a timely request for a hearing, the Associate Administrator may issue a safety order in the form of the proposed order in accordance with paragraphs (c) through (g) of this section.

(4) *Conduct of hearing.* An attorney from the Office of Chief Counsel, PHMSA, will serve as the Presiding Official in a hearing under this section. The hearing will be conducted informally, without strict adherence to formal rules of evidence in accordance with § 190.211. The respondent may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether a safety

order should be issued to address the alleged presence of a condition that poses a pipeline integrity risk to public safety, property, or the environment.

(5) *Post-hearing action.* Following a hearing under this section, the Presiding Official will submit a recommendation to the Associate Administrator concerning issuance of a final safety order. Upon receipt of the recommendation, the Associate Administrator may proceed under paragraphs (c) through (g) of this section. If the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment, the Associate Administrator will issue a safety order under this section. If the Associate Administrator does not find that the facility has such a condition, or concludes that a safety order is otherwise not warranted, the Associate Administrator will withdraw the notice and promptly notify the operator in writing by service as prescribed in § 190.5. Nothing in this subsection precludes PHMSA and the operator from entering into a consent agreement at any time before a safety order is issued.

(6) *Termination of safety order.* Once all remedial actions set forth in the safety order and associated work plans are completed, as determined by PHMSA, the Associate Administrator will notify the operator that the safety order has been lifted. The Associate Administrator shall suspend or terminate a safety order whenever the Associate Administrator determines that the pipeline facility no longer has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment.

(c) How is the determination made that a pipeline facility has a condition that poses an integrity risk? The Associate Administrator, OPS may find a pipeline facility to have a condition that poses a pipeline integrity risk to public safety, property, or the environment under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator determines the particular facility has such a condition; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique with a history of being susceptible to failure when used in pipeline service, unless the operator involved demonstrates that such equipment, material, or technique is not susceptible to failure given the manner it is being used for a particular facility.

(d) What factors must PHMSA consider in making a determination that a risk condition is present? In making a determination under paragraph (c) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas where the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas;

(4) For hazardous liquid pipelines, the proximity of the pipeline to an unusually sensitive area;

(5) The population density and growth patterns of the area in which the pipeline facility is located;

(6) Any relevant recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board;

- (7) The likelihood that the condition will impair the serviceability of the pipeline;
 - (8) The likelihood that the condition will worsen over time; and
 - (9) The likelihood that the condition is present or could develop on other areas of the pipeline.
- (e) What information will be included in a safety order? A safety order shall contain the following:
- (1) A finding that the pipeline facility has a condition that poses a pipeline integrity risk to public safety, property, or the environment;
 - (2) The relevant facts which form the basis of that finding;
 - (3) The legal basis for the order;
 - (4) The nature and description of any particular corrective actions to be required of the operator; and
 - (5) The date(s) by which the required corrective actions must be taken or completed and, where appropriate, the duration of the order.
- (f) Can PHMSA take other enforcement actions on the affected facilities? Nothing in this section precludes PHMSA from issuing a Notice of Probable Violation under § 190.207 or taking other enforcement action if noncompliance is identified at the facilities that are the subject of a safety order proceeding.

[73 FR 16567, Mar. 28, 2008, as amended at 74 FR 2893, Jan. 16, 2009]