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 9, 2007

Rick A. Olson
Vice President of Operations and Technical Services
Magellan Pipeline Company, L. P.
Bank of Oklahoma Tower
One Williams Center, Suite 2800
Tulsa, OK 74172

**CPF 3-2007-5009M**

Dear Mr. Olson:

On July 10-14, August 14-18, August 21-25, August 28 - September 1, September 11-15, 2006, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Magellan Pipeline Company, L. P. procedures for operation and maintenance in field locations in facilities in Kansas, Missouri, Illinois, and Iowa.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within Magellan Pipeline Company, L. P.'s plans or procedures and are described below:

1. **§195.402 Procedural Manual for Operations, Maintenance and Emergencies.**

   **§195.402(a) requires that each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

   **§195.402(c) indicates that the manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Review of the Operation and Maintenance (O&M) manual found that the following requirements were not adequately covered in the manual or needed to be expanded to provide additional guidance to your personnel. Items (a) through (c) are required to be included in the manual by §195.402(c)(3).

**1(a) §195.420 Valve maintenance.**

**(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

Procedures did not address determining if mainline valves functioned in each available operational mode, such as manually operated with a hand wheel, locally motor operated, and SCADA remotely operated.

**1(b) §195.428 Overpressure safety devices and overfill protection systems.**

**(d) After October 2, 2000, the requirements of paragraphs (a) and (b) of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overfill protection systems.**

Procedures did not address inspecting and testing each of the available overfill protection systems, such as the alarm signal and the electronic command signal path and subsequent operation of the receiving valve.

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 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 30 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.

In correspondence concerning this matter, please refer to **CPF 3-2007-5009M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

for Donald E. Moore

Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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

# Response Options for Pipeline Operators in Compliance Proceedings

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

## 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. Pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to make findings and to close the case with prejudice to the respondent. Payment terms are outlined below;

2. Submit written explanations, information, or other materials in response to the allegations and/or seek elimination or mitigation of the proposed civil penalty. Refer to 49 C.F.R. § 190.225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based; or

3. 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. Notify the Regional Director that you intend to take the steps in the proposed compliance order;

2. Submit written explanations, information, or other materials in answer to the allegations in the Notice and object to or seek clarification of the proposed compliance order items in whole or in part; or

3. 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. Notify the Regional Director of your plans to address the inadequacies identified in the Notice;

b. Submit written explanations, information, or other materials in answer to the allegations in the Notice and/or object to or seek clarification of the proposed amendment items in whole or in part; or

c. 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 which the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or 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 $10,000, 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 prepared by PHMSA, including the violation report, the Notice, and any order issued in this case, and any material provided to PHMSA by the respondent, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If the information you provide is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. 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. **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.

## VII. 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 (AMZ-300) P.O. Box 25082
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) 954-8893, 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) 954-8893, or at the above address.

**INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS**

| | |
|---|---|
| (1) RECEIVER ABA NO.<br>021030004 | (2) TYPE/SUB-TYPE<br>(Provided by sending bank) |
| (3) SENDING BANK ABA NO.<br>(Provided by sending bank) | (4) SENDING BANK REF NO.<br>(Provided by sending bank) |
| (5) AMOUNT | (6) SENDING BANK NAME<br>(Provided by sending bank) |
| (7) RECEIVER NAME<br>TREAS NYC | (8) PRODUCT CODE<br>(Normally CTR, or as provided by sending bank) |
| (9) BENEFICIAL (BNF) = AGENCY LOCATION CODE<br>BNF = /ALC-69-14-0001 | (10) REASONS FOR PAYMENT<br>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 - "**BNF=/ALC-69-14-0001**". 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) 954-8893 at the time you send the wire transfer.

November 2006