



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
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609.771.7800

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

OVERNIGHT EXPRESS DELIVERY

January 20, 2017

Mr. Michael Pearson
VP Technical Services
Magellan Terminals Holdings, LP
One Williams Center, Mail Drop 27
Tulsa, OK 74172

CPF 1-2017-6001

Dear Mr. Pearson:

From May 18 – May 22, 2015, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected Magellan Terminals Holdings, LP (Magellan) pipeline terminal in New Haven, Connecticut.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. § 195.432 Inspection of in-service breakout tanks

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

Magellan failed to inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to American Petroleum Institute (API) Std. 653

(incorporated by reference, §195.3(b)(19)), as prescribed in §195.432(b). Specifically, Magellan did not conduct an external inspection of 7 breakout tanks within the 5-year interval specified under section API Std. 653 Section 6.3.2.1 - External Inspection.

API Std. 653, Section 6.3.2.1 External Inspection states that “all tanks shall be given a visual external inspection by an authorized inspector. This inspection shall be called the external inspection and must be conducted at least every 5 years or RCA/4N years (where RCA is the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils per year) whichever is less. Tanks may be in operation during this inspection.”

During the inspection, the PHMSA inspector reviewed API Std. 653 external and external ultrasonic thickness inspection reports for Magellan’s Hamden and New Haven, Connecticut breakout tank facilities.

The records indicated that external inspections for the 7 tanks listed in the table below exceeded the maximum interval specified by API Std. 6.3.2.1.

Breakout Tank #	Last External Inspected	Next External Due per API Std. 653
Hamden 4H	4/24/2010	4/24/2015
Hamden 5H	5/18/2010	5/18/2015
Hamden 6H	5/19/2010	5/19/2015
Hamden 7H	5/19/2010	5/19/2015
Hamden 11H	4/20/2010	4/20/2015
New Haven 4A	5/20/2010	5/20/2015
New Haven 11A	5/20/2010	5/20/2015

In an email dated 7/10/2015, PHMSA requested that Magellan “provide the 2010 and 2015 external inspection (in-service inspection) and 2010 and 2015 ultrasonic thickness inspection reports. . .” for the tanks referenced in the table above.

Magellan responded via email on 7/15/2015, stating in part that “. . . I do not have a date when the next inspections will be done, but they will be completed during the 5th calendar year. I anticipate that these inspections will be completed during July or August at the latest. The same would be true of other “next” inspections; they will be completed during the calendar year . . .”

Therefore, Magellan failed to inspect 7 breakout tanks per API Standard 653 Section 6.3.2.1 requirements.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$205,638 per violation per day the violation persists up to a maximum of \$2,056,380 for a related series of violations. For violations occurring between January 4, 2012 to August 1, 2016, the maximum

penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with maximum penalty not to exceed \$1,000,000 for related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$28,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$28,600

Response to this Notice

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. All material 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). 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.

In your correspondence on this matter, please refer to **CPF 1-2017-6001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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