



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 15, 2012

Mr. Wes Christensen
Sr. Vice President, Operations
ONEOK NGL Pipeline L.P.
100 West 5th Street
Tulsa, Oklahoma 74103

CPF 3-2012-5012

Dear Mr. Christensen:

On July 24-29, August 15-18, and 22-25, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your records for the Medford area in Medford, Oklahoma, and the facilities in Kansas and Oklahoma. For the North System, facilities and records were inspected in Des Moines and Iowa City, Iowa.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §195.49 Annual report

Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. An operator must submit the annual report by June 15 each year, except that for the 2010 reporting year the report must be submitted by August 15, 2011. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, carbon dioxide pipelines, and fuel

grade ethanol pipelines. For each state a pipeline traverses, an operator must separately complete those sections on the form requiring information to be reported for each state.

For the North System, ONEOK NGL Pipeline L.P. (ONEOK) did not submit separate annual reports for the refined products and diesel that are transported in addition to the HVL transported. All the mileage for these pipelines has been submitted under the HVL annual report.

Since 2007, ONEOK has not been correctly submitting the annual report for the North System. ONEOK's North System transports refined products and diesel on Lines 113, 114, 119, 112, 101, and 103. However, these lines are being reported in the HVL annual report. No separate reports for the refined products are being submitted. ONEOK resubmitted the annual reports for 2010 after this was brought to their attention during PHMSA's inspection.

2. §195.402 Procedural manual for operations, maintenance, and emergencies.

(d) Abnormal operation. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded;

(1) Responding to, investigating, and correcting the cause of;

- (i) Unintended closure of valves or shutdowns;**
- (ii) Increase or decrease in pressure or flow rate outside normal operating limits;**
- (iii) Loss of communications;**
- (iv) Operation of any safety device;**
- (v) Any other malfunction of a component, deviation from normal operation, or personnel error which could cause a hazard to persons or property.**

ONEOK did not follow up and correct the cause of an abnormal operation that occurred in the Des Moines area in 2010.

ONEOK's procedures specify certain actions that must be taken when abnormal operations occur. On the North System, ONEOK personnel indicated that all abnormal operations are documented in the SHAVRs program. However, review of the records found that the recommended actions noted during the investigation were not addressed or followed up on. For example, SHAVR Report 2494 had a recommendation of investigating why a HI pressure switch remained on SCADA for more than an entire shift without being investigated. At the time of PHMSA's

inspection, there was no documentation indicating that this was completed. ONEOK's response to the Letter for Request for Specific Information indicated that they did look into it, but no further action was taken to remedy the situation and to prevent this from happening again.

3. §195.402 Procedural manual for operations, maintenance, and emergencies.

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(13) Periodically reviewing the work done by operator to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

For the Medford area and the North System, ONEOK personnel did not periodically review the work done by personnel to determine the effectiveness of their procedures.

ONEOK was not able to demonstrate that they periodically reviewed work done by personnel to determine the effectiveness of the procedures. Furthermore, ONEOK's procedures indicated that the "ONP Business manager or designee shall be responsible for conducting a review of the work done by personnel, incident, and near miss reports to determine the effectiveness of operating procedures at intervals not exceeding 15 months, but at least once each calendar year." ONEOK did not have any records that indicated that this was being completed.

4. §195.422 Pipeline Repairs.

(a) Each operator shall, in repairing its pipeline systems, insure that the repairs are made in a safe manner and are made so as to prevent damage to persons or property.

In the Medford area, ONEOK is not making repairs in a safe manner that will prevent damage to persons or property.

ONEOK utilized composite sleeves to repair crack-like indications. Review of inline inspection dig repair reports found one report where a composite sleeve was used as a temporary repair on some crack-like features in the pipe seam in 2008. Consistent with industry standards such as ASME B31.4, the composite sleeve manufacturer's technical guidance specifically states that the composite sleeve is not to be used to repair cracks without grinding out the crack defect. The use of a repair

method on a defect for which its use is not permitted by the manufacturer and referenced industry standards is insufficient to safely prevent damage to persons or property.

5. **§195.406 Maximum operating pressure.**

(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

ONEOK did not provide adequate controls and protective equipment at Winterset Station on the North System to ensure that the pressure in the pipeline would not exceed the maximum operating pressure (MOP).

On May 23, 2008, a management-of-change (MOC) memorandum was issued to reduce the pressure on the Massena to Des Moines section of Line 102 because MOP-reducing anomalies were present. This line section included the Winterset pump station and required that the over-pressure protection be reset to 1930 psig for protection a lower MOP of 1950 psig from the original 2160 psig. On June 6, 2008, a second MOC was issued on Line 102 after a failure occurred on May 31, 2008. The June 6th MOC affected the line segment from Massena to Tabor (downstream of the Massena to Des Moines section) and lowered the MOP to 1704 psig. On June 13, 2008, a third MOC was issued to reduce the maximum operating pressure for the entire Line 102 from Des Moines, Iowa, to Bushton, Kansas. The June 13th MOC was in addition to the June 6th MOC, and superseded the May 23, 2008, MOC.

The MOC issued on June 13, 2008, did not address resetting the pipeline over-pressure protection at Winterset pump station. As a result, from the time of the June 13, 2008, MOC to the time of the PHMSA inspection, the set points of the over pressure protection at Winterset remained at 1930 psig, which exceeded the maximum operating pressure. Review of the discharge records during this time period found that the line did not operate at pressures above 1704 psig, but did spike above the 1704 psig MOP for short periods of time during pump start up and shut downs. The line pressures never exceeded the 1704 psig plus 10% (1874psi).

6. **§195.428 Overpressure safety devices and overflow protection systems.**

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each

pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

For the Winterset pump station on the North System, ONEOK did not adequately check the overpressure protection device for reliability of operation at 1930 psig for the service in which it is used from October 2008 to the time of PHMSA's inspection.

In May of 2008, a Management of Change (MOC) was issued on the Des Moines to Massena section of Line 102 to change the over-pressure protection set points to 1930 psig. This set-point remained in effect until the PHMSA inspection in 2011. The semi-annual inspection of the transmitter utilized as the over-pressure protection of the new maximum operating pressure (MOP) simply documented that the transmitters were calibrated and spanned, but there was no indication that the device activated at the set point (1930 psig) at which the transmitters send the signals to shut down the pumps.

After PHMSA's onsite inspection, in September of 2011, ONEOK personnel reset the physical shut down switch to protect at a MOP of 1704 psig.

7) §195.569 Do I have to examine exposed portions of buried pipelines?

Whenever you have knowledge that any portion of a buried pipeline is exposed, you must examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If you find external corrosion requiring corrective action under Sec. 195.585, you must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

ONEOK is not inspecting their pipelines when they utilize a vacuum excavation process to expose their lines for the purposes of confirming pipeline location.

During the review of locate records and Inspect and Investigate (INI) forms, it was noted that ONEOK utilizes an excavation process that vacuums out soil to locate pipelines. This is performed to confirm the location and depth of the pipelines when a foreign utility is intended to cross ONEOK's pipelines. The pipeline does become exposed during this process; however, the exposed pipe section where the condition of the pipe is supposed to be recorded on the INI form was left blank. Further discussion with ONEOK personnel indicated that they were not doing the inspections.

Proposed Civil Penalty

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$78,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$32,100
6	\$46,500

Warning Items

With respect to items 1, 2, 4, and 7, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Be advised that failure to do so may result in ONEOK NGL Pipeline L.P. being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 3 and 5, pursuant to 49 United States Code §60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to ONEOK NGL Pipeline L.P. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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. 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.

In your correspondence on this matter, please refer to **CPF 3-2012-5012** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. A. Barrett', written in a cursive style.

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to ONEOK NGL Pipelines L.P. a Compliance Order incorporating the following remedial requirements to ensure the compliance of ONEOK NGL Pipelines L.P. with the pipeline safety regulations:

1. In regard to Item Number 3 of the Notice pertaining to the periodic review of employees work to determine the effectiveness of the procedures, ONEOK must revise O&M procedure PRC 1410.100 Section 3.1 to better define how ONEOK plans to review the work done by personnel. ONEOK shall submit the revised procedure within 60 days of the date of the Final Order.
2. ONEOK shall immediately begin implementation of the new procedure and submit the records verifying compliance with the procedure within one year after the effective date of the new procedure.
3. In regard to Item Number 5 of the Notice pertaining to the set point of the over-pressure protection equipment at Winterset station, ONEOK shall investigate why the set point of the shut down devices were set too high and left at that set point for multiple years. This investigation shall include the review and revision (if necessary) to the Management of Change (MOC) procedures to determine why Winterset station was missed in the MOC. The review shall also look into how ONEOK ensures that the conditions of the MOC are implemented. The results of the investigation and the revised procedure must be submitted to PHMSA Central Region within 180 days of the date of the Final Order.
4. It is requested that ONEOK NGL Pipelines L.P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

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).

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. 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;
 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 compliance order, notify the Regional Director that you intend to take the steps 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;
- 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 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 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 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-341) 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) 954-8893, 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) <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> BNF = /ALC-69-14-0001	(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 - "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.

February 2009