

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 1, 2017

Heath Norman, CEO
Dakota Midstream
1400 Wewatta Street, Suite 310
Denver, CO 80202

CPF 3-2017-6007

Dear Mr. Norman:

On November 28 through December 2, 2016, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Dakota Midstream (DM) facilities, near Alexandria, North Dakota.

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

1. §195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under §195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels 79.49m³ capacity built to API Spec 12F (incorporated by reference, see §195.3), API Std 620 (incorporated by reference, see §195.3), API Std 650 (incorporated by reference, see §195.3), or API Std 650's predecessor, Standard 12C, you must install the system in accordance with ANSI/API RP 651 (incorporated by reference, see §195.3). However, you don't need to comply with ANSI/API RP 651 when installing any tank for which you note in the corrosion control procedures established under §195.402(c)(3) why complying with all or certain provisions of ANSI/API RP 651 is not necessary for the safety of the tank.

On eleven (11) breakout tanks, Dakota Midstream did not install cathodic protection (CP) per ANSI/API RP 651 – Cathodic Protection of Aboveground Petroleum Storage Tanks. Per §195.563(a) the nine (9) breakout tanks located at Spackler Station and the two (2) located at Wheatland Delivery require cathodic protection. These breakout tanks were built to API Specification 12F and placed above a non-conductive impermeable liner without cathodic protection installed between the liner and the tank bottom as specified in ANSI/API RP 651. Onsite testing demonstrated that effective cathodic protection was not provided for these breakout tanks because Dakota Midstream did not install a CP system in conformance with the regulation, which is necessary for the safety of the tanks.

2. §195.579 What must I do to mitigate internal corrosion?

(a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

Dakota Midstream transports crude oil that could corrode the pipeline, but did not take adequate steps to mitigate internal corrosion; including, installation of internal linings on eleven (11) breakout tanks. These breakout tanks were built to API Specification 12F, and nine (9) were located at Spackler Station and two (2) located at Wheatland Delivery. Therefore, to mitigate internal corrosion, interior tank bottom linings per API RP 652 – Linings of Aboveground Petroleum Storage Tank Bottoms [incorporated by reference, see §195.579(d)], were required to be installed when in crude oil service.

Proposed Compliance Order

As of April 27, 2017, under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to items 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Dakota Midstream. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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 you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2017-6007** 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

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Dakota Midstream a Compliance Order incorporating the following remedial requirements to ensure the compliance of Dakota Midstream with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to CP for breakout tanks, Dakota Midstream shall install CP for the storage tanks at the Spackler Station and Wheatland Station. A plan to address this safety issue shall be provided within 30 days of the Final Order and CP installation completed within 1 year.
2. In regard to Item Number 2 of the Notice pertaining to installation of breakout storage tanks without internal liners, Dakota Midstream shall install internal liners for the storage tanks at the Spackler Station and Wheatland Station. A corrective action plan to address this safety issue, including a proposed timeline, shall be provided within 30 days of the Final Order.
3. It is requested (not mandated) that Dakota Gasification maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan C. Beshore, 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.