

## Notice of Probable Violation / Proposed Compliance Order

VIA ELECTRONIC MAIL TO: [lbullock@mvpurchasing.com](mailto:lbullock@mvpurchasing.com); [rkitterman@mvpipelines.com](mailto:rkitterman@mvpipelines.com);  
and [ACowart@mvpipelines.com](mailto:ACowart@mvpipelines.com)

November 2, 2020

Mr. Lee Bullock  
President  
KPC Pipeline, LLC  
8301 E 21st Street, Suite 370  
Wichita, KS 67206

CPF 3-2020-001-NOPV

Dear Mr. Bullock:

On February 4, February 24-28, and July 13-17, 2020, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your procedures and records in Olathe, Kansas and conducted subsequent field evaluations of your facilities in Missouri, Kansas, and Oklahoma.

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 violations are:

1. **§ 191.17 Transmission systems; gathering systems; liquefied natural gas facilities; and underground natural gas storage facilities: Annual report**
  - (a) ***Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1. This report must be submitted each year, not later than March 15, for the preceding calendar year, except that for the 2010 reporting year the report must be submitted by June 15, 2011.**

KPC Pipeline LLC (KPC) did not accurately complete the 2019 annual report.

Specifically, KPC conducted a repair of a leak on its P70 pipeline at Milepost 209 in April 2019. However, the DOT Form PHMSA 7100.2.1 submitted by KPC shows that no leaks were reported for the 2019 calendar year.

2. **§ 192.167 Compressor stations: Emergency shutdown.**  
(a) **Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:**  
(1) ....  
(4) **It must be operable from at least two locations, each of which is:**  
(i) **Outside the gas area of the station;**  
(ii) **Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and,**  
(iii) **Not more than 500 feet (153 meters) from the limits of the station.**

At the Pawnee compressor station, KPC did not have a second emergency shutdown device (ESD) located near an exit gate and out of the gas area in the station.

KPC's Pawnee Station is a manned compressor station that has multiple ESD stands throughout the station. However, there was not one located near the second exit on the NW side of the fenced yard. With the exception of the ESD stand by the entrance gate on the northeast side, the rest of the ESD stands observed during the PHMSA inspection were located in the gas area (compressor building or above ground piping).

3. **§ 192.227 Qualification of welders and welding operators.**  
(a) **Except as provided in paragraph (b) of this section, each welder or welding operator must be qualified in accordance with section 6, section 12, Appendix A or Appendix B of API Std 1104 (incorporated by reference, see §192.7), or section IX of the ASME Boiler and Pressure Vessel Code (ASME BPVC) (incorporated by reference, see §192.7). However, a welder or welding operator qualified under an earlier edition than the listed in § 192.7 of this part may weld but may not requalify under that earlier edition.**

KPC Pipeline, LLC (KPC) did not properly qualify a welder in accordance with API 1104 Section 6 for a 2015 pipeline project.

On a 2015 project, KPC qualified a welder as being multiple qualified on 12 3/4" diameter pipe. For the butt weld, the welder used KPC's MABW-2 procedure. However, on the branch weld, records show that a 7010 welding rod was used in the root where KPC's only branch weld procedure MAFW-1 requires the use of a 6010 welding rod for the root. KPC did not have a qualified branch weld procedure that specifies a 7010 welding rod on the root bead. KPC personnel indicated that the welder did not do any fabrication work or any fillet type welding on the 2015 project.

4. **§ 192.709 Transmission lines: Record keeping.**

**Each operator shall maintain the following records for transmission line for the periods specified:**

**(a) ....**

**(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.**

KPC could not produce the records at the time of the inspection validating the MAOP (maximum allowable operating pressure), per the requirements of § 192.619, of multiple pipelines. There were several line segments that did not have pressure test records, and some examples where the MAOP was stated as being higher than what the hydrotest validated.

A set of randomly selected hydrotests for the MAOP establishment were reviewed by PHMSA, and there appeared to be discrepancies. The following examples were noted during the inspection:

P-10: MP 0 to 105. MAOP is listed as 874 psig which was limited by the hydrostatic pressure test. However, the Thrall to Interchange stated that the MAOP is 920 psig, but PHMSA did not see a separate test for this segment.

P-20: MP 1 to 105. PHMSA did not see the MAOP records for the segment from MP 16 to 52. Also, the stated MAOP is 960 psig, but the limit from the hydrotest is 938 psig from MP 69 to 105.

P-30: MP 130 to 196. The test indicates an MAOP of 1000 psig, but the MAOP listing states the MAOP as 1100 and 1078.

P-80: Records for portions of the P-80 line were not available for review.

**5. § 192.709 Transmission lines: Record keeping.**

**Each operator shall maintain the following records for transmission line for the periods specified:**

**(a) ....**

**(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.**

KPC inspection records for the overpressure protection at the compressor stations did not adequately document the set point of the high pressure shut down of the compressor engines. Additionally, KPC's records for their pressure regulating stations were not documenting the "as found" and "as left" settings correctly.

At the KPC compressor stations, each compressor has full capacity relief valves as well as a engine high pressure shut down (HPSD) device that is the main over-pressure protection device. However, records for HPSD at the Beaumont and Pawnee compressor stations did not clearly document the inspection of the HPSD. The Ottawa records makes a mention of the HPSD, but no “As found” or “As left” values are documented on the form.

Review of the regulator station records found that the “As-found” and “As-left” values that are recorded on the inspection forms were the line pressures on the system when the inspection occurs rather than the set point pressures. The “As found” and “As left” set points must be documented.

**6. § 192.917 How does an operator identify potential threats to pipeline integrity and use the threat identification in its integrity program?**

**(a) ....**

**(c) Risk assessment. An operator must conduct a risk assessment that follows ASME/ANSI B31.8S, section 5, and considers the identified threats for each covered segment. An operator must use the risk assessment to prioritize the covered segments for the baseline and continual reassessments (§§ 192.919, 192.921, 192.937), and to determine what additional preventive and mitigative measures are needed (§ 192.935) for the covered segment.**

KPC’s risk assessment program did not appropriately consider the identified threats for each covered segment. A review of records for the 2018 risk model of the P-60, P-90, and P-80 pipelines showed some irregularities. For instance, the internal corrosion threat ranking was higher in some instances than the external corrosion threat; although, per KPC, there had been no cases of internal corrosion failures, but there have been external corrosion failures.

**7. § 192.947 What records must an operator keep?**

**An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of this subpart. At minimum, an operator must maintain the following records for review during an inspection.**

**(a) ....**

**(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements.**

KPC was not able to provide any documentation showing the effectiveness of the

additional third party damage preventative and mitigative measures as required by § 192.917(e)(1). Additionally, KPC did not document the analysis or subsequent discussions to determine that no automatic shut-off valves or (ASV) or remote control valves (RCV) were needed as required by § 192.935(c).

KPC utilizes the 52 aerial patrols and right-of-way clearing to address third party damage (TPD). They also engage in the Public Awareness programs. However, KPC was unable to demonstrate the effectiveness of the TPD P&M measures, and there was no documentation of the effectiveness review of the measures.

KPC does not utilize ASVs or RCV, but was unable to produce any records of an analysis to determine if ASVs or RCVs would be an effective means of adding protection to a high consequence area in the event of a gas release. KPC personnel indicated that an evaluation was completed, but that they could not find any documentation of that evaluation.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

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.

#### Proposed Compliance Order

With respect to items one (1), two (2), and four (4), pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to KPC Pipeline, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

#### Warning Items

With respect to items three (3), five (5), six (6), and seven (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. Failure to do so may result in additional enforcement action.

#### Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement 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 3-2020-001-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

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

cc: Mr. Rob Kitterman, Vice President – KPC, [rkitterman@mvpipelines.com](mailto:rkitterman@mvpipelines.com)  
Mr. Adam Cowart, Manager of EHS – KPC, [ACowart@mvpipelines.com](mailto:ACowart@mvpipelines.com)

## PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to not accurately completing the annual report form, within **30** days of receipt of the Final Order, KPC Pipeline, LLC (KPC) must file an amended 2019 report for any leaks not previously reported. Additionally, within **30** days of receipt of the Final Order, KPC must review their annual reports for 2017 and 2018 and file amended report(s) for any leaks that occurred during those years and were not previously reported. Within **45** days of receipt of the Final Order, KPC must send correspondence to the Director, Central Region, PHMSA, affirming that the required amended form(s) have been filed.
- B. In regard to Item 2 of the Notice pertaining to missing an ESD stand next to the second emergency exit, KPC Pipeline, LLC (KPC) must install the required ESD stand by the second exit on the north west corner of the yard within **180** days of receipt of the Final Order. Within **210** days of receipt of the Final Order, or within 30 days of installing the ESD stand, whichever comes first, KPC must submit documentation showing that the ESD was installed next to the second emergency exit.
- C. In regard to Item 4 of the Notice pertaining to having no records to substantiate the current MAOPs, KPC Pipeline, LLC (KPC) must conduct a review of their records to verify the current stated MAOPs on the pipeline system. If the records do not substantiate the currently listed MAOPs, then KPC must take steps to reduce the MAOP and provide protection for the reduced MAOP. Within **120** days of receipt of the Final Order, KPC must send correspondence affirming that the records review has been completed, and protection provided for any reduced MAOPs.

Alternatively, where records do not substantiate the currently listed MAOP, KPC may provide a plan with a schedule for the Director, Central Region, PHMSA approval, to re-confirm the MAOP, where needed. For this alternative, KPC must provide the plan with a schedule within **120** days of receipt of the Final Order. Once approved by the Director, Central Region, PHMSA, KPC must implement the plan, as approved. If KPC decides not to exercise this alternative, then within **120** days of receipt of the Final Order, KPC must send correspondence to the Director, Central Region, PHMSA affirming that this alternative will not be utilized.

- D. Within **90** days of receipt of the Final Order, KPC must submit an initial progress report for the work required by the compliance order. After submission of the initial report, KPC must continue submitting quarterly progress reports every 90 days until the Final Order is closed.

- E. It is requested (not mandated) that KPC Pipeline , LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, 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