

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

VIA ELECTRONIC MAIL TO: Matt.Smorch@countrymark.com and
blair.currie@countrymark.com

September 30, 2020

Mr. Matt Smorch
Chief Executive Officer
CountryMark Refining and Logistics, LLC
225 S.E. St., Suite 44
Indianapolis, IN 46202

CPF 3-2020-5014

Dear Mr. Smorch:

From July 29 through August 2 and August 12 through 16, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected your CountryMark Refining and Logistics, LLC (CountryMark) crude oil pipeline system located in Illinois and Indiana and reviewed your pipeline records in Mount Vernon, IL.

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. §195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) . . .

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);

(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2; and

CountryMark failed to install the impoundment around the aboveground breakout tanks in accordance with section 22.11.2 of NFPA-30. During the field inspection, PHMSA inspector identified that the impoundment for CountryMark's Enfield Station tanks 529 and 530, which were built to API 650 in 2005 and 2012 respectively, do not comply with NFPA-30. Section 22.11.2.6 of NFPA-30 states that "[e]ach diked area containing two or more tanks shall be subdivided, preferably by drainage channels or at least by intermediate dikes, in order to prevent minor spills from a tank from endangering adjacent tanks within the diked area." Although tanks 529 and 530 sharing a common perimeter dike, there is no drainage channel or intermediate dike to subdivide them as required by NFPA-30.

2. §195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

CountryMark failed to adequately inspect the surface conditions on or adjacent to the pipeline right-of-way (ROW) due to the presence of vegetation and overgrown tree canopy on the ROW. At the time of the inspection, CountryMark was using only aerial patrol, however, aerial patrols do not allow for CountryMark to perform an effective inspection of the surface conditions in the areas where there is overgrowth.

Specifically, PHMSA inspector identified areas of dense vegetation and excessive tree canopy during the field inspection. The identified conditions were noted in photographs of the ROW at Mile Post 7, 9, 23 and 25. This was confirmed by Google Earth Pro satellite images. In addition, the ROW records for the aerial inspection conducted on June

6, 2019, did not document any indication of concerns or impaired visibility. No other methods of patrolling were conducted at the referenced areas by CountryMark.

3. §195.446 Control room management.

(a) . . .

(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements: . . .

CountryMark failed to review its training program once each calendar year, but not to exceed 15 months, as required by §195.446. During the inspection, PHMSA reviewed CountryMark's "Training and Program Review Records" dated July 29, 2016, July 5, 2017, and November 12, 2018. The interval between years 2017 and 2018 exceeded the 15-month requirement by one month and five days.

4. §195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will-

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

CountryMark failed to protect portions of its pipeline at soil-to-air interfaces against atmospheric corrosion. During the field inspection of CountryMark's facilities, a PHMSA inspector observed that the coating did not adequately extend beyond the ground surface and protect the soil-to-air interface at the following three locations:

Facility	Inadequacy
Beetle Weed Road Block Valve	Valve was partially covered in mud and water. No coating was observed on the valve or pipe.

Enfield Station	Suction line laying on the ground was partially covered in rock and dirt with unsatisfactory coating at interface.
Mount Vernon Station	The coating on the suction line to Tank 560 did not extend above the soil-to-air interface.

Proposed Compliance Order

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. For violations occurring prior to November 2, 2015, 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.

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, 2, and 4, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to CountryMark Refining and Logistics, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to item 3, 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 3-2020-5014** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory 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. Blair Currie, Pipeline Integrity Manager, CountryMark Refining and Logistics, LLC,
1200 Refinery Rd, Mount Vernon, IN 47620 , blair.currie@countrymark.com

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to Tanks 529 and 530 sharing a dike with no subdivision, CountryMark must install either a drainage channel or intermediate dike between the tanks as required by NFPA-30 (2012 Edition). Documentation of corrective measures taken shall be provided to PHMSA.
2. In regard to Item Number 2 of the Notice pertaining to vegetation and overgrown tree canopy on the right of way, CountryMark shall clear the canopy over the right-of-way to allow proper aerial patrol viewing or identify areas that will be patrolled by another method. Documentation of corrective measures taken shall be provided to PHMSA.
3. In regard to Item Number 4 of the Notice pertaining to soil to air interfaces, CountryMark shall bring the identified areas into compliance with §195.581. Documentation of corrective measures taken shall be provided to PHMSA.
4. CountryMark shall submit documentation of the corrective measures taken in Items 1, 2, and 3 of the Compliance Order to Greg Ochs, Director, Central Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration within 90 days of the Final Order being issued.
5. It is requested (not mandated) that CountryMark maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Greg Ochs, Director, Central Region, Office of Pipeline Safety, 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.