

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

VIA ELECTRONIC MAIL TO: dwortman@urc.com

May 5, 2023

Mr. Dave Wortman
Vice President, Supply and Transportation
Kiantone Pipeline Corp
15 Bradley Street
PO BOX 780
Warren, Pennsylvania 16365

CPF 1-2023-013-NOPV

Dear Mr. Wortman:

From April 25, 2022 through May 20, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) conducted an inspection of Kiantone Pipeline Corp's (Kiantone) procedures, records, and field observations in Warren, Pennsylvania.

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. § 194.7 Operating restrictions and interim operating authorization.**
 - (a) ...**
 - (b) An operator must operate its onshore pipeline facilities in accordance with the applicable response plan.**

Kiantone failed to follow its response plan regarding response equipment testing. Specifically, Kiantone failed to operate its facilities in accordance with its response plan when it did not routinely test its spill response equipment at its Warren, Pennsylvania facility during 2020 and 2021 in accordance with the *Facility Response Plan, dated 02/11/22* (FRP) under §

194.107(c)(1)(viii). Section 194.107(c)(1)(viii) requires that a facility response plan must include equipment testing.

During the inspection, PHMSA reviewed the FRP. FRP Section 3-E stated in part that “Kiantone's/URC’s response equipment is exercised and maintained by the spill response team twice a year. Inspections and inventory are made monthly and logged in a journal kept at the facility...”

PHMSA requested recent records for the spill response equipment inspections required under Section 3-E of the FRP in Warren, Pennsylvania. Kiantone was unable to produce any response plan inspection and equipment testing records for 2020 and 2021.

Therefore, Kiantone failed to follow its response plan regarding response equipment testing in accordance with § 194.7(b).

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

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Kiantone failed to follow its written procedures. Specifically, Kiantone failed to follow its *Operations, Maintenance & Emergency Response Procedures Manual, dated 03/07/22* (OME) Section 19.3 and *Facility Response Plan, dated 02/11/22* (FRP) regarding emergency response training in accordance with § 195.402(a).

Section 19.3 of the OME stated, in part, under “Training” that “Kiantone personnel receive training in the use of Company emergency response procedures. The training includes “table-top” discussions of emergency scenarios.” Section 19.3 further states “[s]imulated emergency response drills are normally conducted twice per year, but at least annually, to further ensure appropriate actions in the event of an emergency.”

Further, Section 7 of the FRP stated in part that “It is the responsibility of management of the facility to ensure that the response resources identified in this plan participate in an annual deployment drill.”

During the inspection, PHMSA requested records related to emergency response training at the West Seneca, New York field unit. Kiantone provided the *Spill Prevention Training and Spill Response Drills* (ERP Records). The ERP Records indicated that the West Seneca pipeline

manager did not attend the emergency response training drills during calendar years 2020 and 2021.

Therefore, Kiantone failed to follow its OME and FRP regarding emergency response training, in accordance with § 195.402(a).

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

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Kiantone failed to follow its written procedures. Specifically, Kiantone failed to follow its *Annual Cathodic Protection and New Cathodic Protection Systems Survey, dated 05/28/02* (BOT CP) Section II regarding conducting its breakout tank cathodic protection surveys in accordance with § 195.402(a).

Section II of the BOT CP stated, among other requirements, that Kiantone shall “Obtain and record tank product level... Check and record rectifier operation... Report on all findings. Compile a report stating the results of the survey and list any deficiencies found...” The BOT CP procedure did not specify what form is to be utilized to record the required survey information or to report its findings, including any deficiencies found.

During the inspection, PHMSA requested cathodic protection records for the breakout tanks at West Seneca, New York (Tanks 701, 702, 703, 704) and at Warren, Pennsylvania (Tanks 650, 651, 652) for calendar years 2019 through 2021. Kiantone provided the *Tanks Potentials* (BOT CP Records) documents. The BOT CP Records, however, failed to record pertinent information as required by the BOT CP procedure such as the name of the tank, the facility/operator location, the tank product level, who conducted and signed off on the inspection, as well as a report on any findings. The forms used to document these surveys varied by location and each lacked certain data fields for capturing information discussed by the procedure. When PHMSA requested additional information on where this data was located, Kiantone stated it was included on the BOT CP Records. Kiantone was unable to demonstrate that it had performed and documented the actions required by its BOT CP procedure.

Therefore, Kiantone failed to follow its procedures regarding conducting its breakout tank cathodic protection surveys in accordance with § 195.402(a).

4. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Kiantone failed to conduct a review of its operations, maintenance, and emergency manual, at intervals not exceeding 15 months, but at least once each calendar year, and make appropriate changes as necessary to insure that the manual is effective, in accordance with § 195.402(a).

During the inspection, PHMSA requested the annual review records for the operations, maintenance, and emergency manual for calendar years 2019 through 2021. Kiantone provided its *Operations, Maintenance & Emergency Response Procedures Manual, dated 03/07/22 (OME) – Appendix G*.

Kiantone stated that Appendix G contained the revision logs for its OME. However, the revision logs failed to indicate that an annual review was conducted, who conducted the annual review, the dates of the annual review, who signed off/approved the annual review and why changes were made. When the PHMSA inspector requested further information, Kiantone stated that each date documents a change that was made to the manuals.

Therefore, Kiantone failed to conduct an annual review of its operations, maintenance, and emergency manuals during calendar years 2019 through 2021 at intervals not exceeding 15 months, but at least once each calendar year, in accordance with § 195.402(a).

5. § 195.403 Emergency response training.

(a) ...

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

Kiantone failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible for ensuring compliance. Specifically, Kiantone failed to provide records demonstrating compliance with § 195.403(c).

During the inspection PHMSA requested records related to § 195.403(c) for calendar years 2019 through 2021. Kiantone was unable to produce any records related to its supervisors reviewing the emergency response procedures or otherwise verifying its supervisors' knowledge of the emergency response procedures for which they are responsible to ensure compliance.

Therefore, Kiantone failed to require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible for ensuring compliance during calendar years 2019 through 2021 in accordance with § 195.403(c).

6. § 195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(1) The internal design pressure of the pipe determined in accordance with § 195.106. However, for steel pipe in pipelines being converted under § 195.5, if one or more factors of the design formula (§ 195.106) are unknown, one of the following pressures is to be used as design pressure

(i) Eighty percent of the first test pressure that produces yield under section N5.0 of appendix N of ASME/ANSI B31.8 (incorporated by reference, see § 195.3), reduced by the appropriate factors in §§ 195.106 (a) and (e); or

(ii) If the pipe is 1 3/4 inch (324 mm) or less outside diameter and is not tested to yield under this paragraph, 200 p.s.i. (1379 kPa) gage.

(2) The design pressure of any other component of the pipeline.

(3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under subpart E of this part.

(4) Eighty percent of the factory test pressure or of the prototype test pressure for any individually installed component which is excepted from testing under § 195.305.

(5) For pipelines under §§ 195.302(b)(1) and (b)(2)(i) that have not been pressure tested under subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for 4 or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

Kiantone failed to maintain adequate records that demonstrate that the maximum operating pressure (MOP) of its jurisdictional pipeline segments were determined in accordance with § 195.406(a). Specifically, Kiantone failed to maintain adequate records demonstrating the design pressure of all pipeline components pursuant to § 195.406(a)(2) to support its MOP determination for its West Seneca - Warren and Enbridge - West Seneca pipelines.

During the inspection, PHMSA requested records supporting the design pressure of the components of the Kiantone pipelines. Kiantone provided the *Calculation of Maximum Operating Pressure Record, dated 05/17/22* (MOP Calculation) and the *Kiantone Pipeline Corporation Purchase Order, dated 03/12/71* (Valve Purchase Order). Kiantone did not provide compliant documentation related to the design pressures of the valves in the pipeline system. The MOP Calculation did not demonstrate compliance to § 195.406(a)(2) as it failed to be supported and

verified by traceable and verifiable records.

The Valve Purchase Order was a purchase order for valves from 1971. This Valve Purchase Order was insufficient to verify the design pressures of all valves on Kiantone's pipeline and did not verify an installation or design pressure of the current valves in the pipeline system. Kiantone was unable to provide any complementary records to verify the Valve Purchase Order ratings as those of the valves in the system presently, and the ratings ultimately used in its MOP Calculation.

Therefore, Kiantone failed to maintain adequate records to support its MOP determination of the West Seneca - Warren and Enbridge - West Seneca pipelines pursuant to § 195.406(a)(2).

7. § 195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

(1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.

Kiantone failed to maintain line markers at each public road crossing so that its location is accurately known. Specifically, Kiantone failed to maintain line markers at a public road crossing in the north and south directions adjacent to mainline valve eight, in north Warren County, Pennsylvania, in accordance with § 195.410(a).

During the inspection, PHMSA made observations of missing line markers in the north and south directions near mainline valve eight and requested from Kiantone why there were missing line markers. Kiantone stated that the line markers were knocked down due to third-party construction and logging activities and were not replaced.

Therefore, Kiantone failed to maintain line markers in the north and south directions adjacent to mainline valve eight, in north Warren County, Pennsylvania, in accordance with § 195.410(a).

8. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Kiantone failed to follow its written procedures. Specifically, Kiantone failed to follow its *Operations, Maintenance & Emergency Response Procedures Manual, dated 03/07/22 (OME)*

regarding calibration of field instrumentation used in leak detection, in accordance with § 195.402(a).

Kiantone's OME, Section 6.4 Kiantone SCADA & CPM Systems, stated in part that "To ensure compliance with API 1130 Computational Pipeline Monitoring (CPM), as required by 49 CFR 195.444, the Kiantone Pipeline Manager: Ensures that transmitters providing input to the CPM system are calibrated according to manufacturer's recommendations." Section 195.444 requires, in part, that each CPM must comply with API RP 1130 (3rd Ed. 2007) "in operating, maintaining, testing, record keeping, and dispatcher training of the system." AP RP 1130 addresses the "calibration and maintenance of the field instrumentation and the measurement that is necessary to adequately support a CPM system", including that an operator's calibration procedures should address ". . . the date, time, person's initials, and the events performed during the test. Instrumentation and measurement should be calibrated in accordance with manufacturer's recommendations and calibrations should be traceable to National Institute for Standards and Testing. Operating experience should provide the basis for determining an appropriate test and re-calibration fixed interval."

During the inspection, PHMSA requested records regarding leak detection calibration equipment for Kiantone's West Seneca – Warren and Enbridge – West Seneca pipelines. Kiantone provided the *Mass Flowmeter Calibration Certificates, dated 2002* (Flowmeter Records). Furthermore, Kiantone provided the *Periodic Verification & Calibration of Micro Motion Coriolis Flow Meters, dated 06/20/13* (Calibration Procedure).

The Calibration Procedure stated in part:

Calibration Interval - For customers that have not otherwise established a company policy, and have no industry guidelines to follow, a 3-year calibration interval is suggested - however, when equipped with Smart Meter Verification, this interval may be extended indefinitely if tested regularly with a passing result - at least once every 3 months is recommended.

When the PHMSA inspector re-requested recent calibration records, Kiantone discussed that it only has the original calibration certificates and has not calibrated the equipment since.

Therefore, Kiantone failed to follow its OME regarding calibration of field instrumentation equipment used in leak detection, in accordance with § 195.402(a).

9. § 195.452 Pipeline integrity management in high consequence areas.

(a) ...

(1) What records must an operator keep to demonstrate compliance?

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

Kiantone failed to maintain records that demonstrate compliance with the requirements of subpart F. Specifically, Kiantone failed to maintain documents of the evaluation of the capability of its leak detection required by § 195.452(i)(3).

Section 195.452(i)(3) states:

(3) Leak detection. An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider, the following factors—length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

Kiantone's pipeline facilities include locations within high consequence areas (*See, e.g.*, Kiantone Facility Response Plan, dated 02/11/22). During the inspection, PHMSA requested records demonstrating compliance with the requirements of § 195.452(i)(3). Kiantone failed to produce any records for calendar years 2019 through 2021. Subsequently, PHMSA requested records of any leak evaluations ever performed and Kiantone discussed that they do not have a record or evaluation on the leak detection system.

Therefore, Kiantone failed to maintain records of an evaluation of the capability of its leak detection, in accordance with § 195.452(l)(1).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$167,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$37,900
5	\$40,500
8	\$35,300
9	\$53,900

Warning Items

With respect to items 2, 4, 6 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. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 3 and 9 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Kiantone Pipeline Corp. 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 Enforcement Proceedings*. Please refer to this document and note the response options. All material you 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 1-2023-013-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 3 of the Notice pertaining to breakout tank cathodic protection survey records, Kiantone must revise its procedure(s) and/or record form(s) to allow for consistent and complete capturing of information required for its breakout tank cathodic protection surveys. Kiantone must submit revised procedure(s) and/or record form(s) to the Director – Eastern Region for review and approval within **60** days of receipt of the Final Order.

- B. In regard to Item 9 of the Notice pertaining to the failure to maintain records of an evaluation of the capability of its leak detection system, Kiantone must complete a leak detection evaluation on its associated pipeline system, in accordance with § 195.452(i)(3) and forward all documentation to the Director – Eastern Region within **90** days of receipt of the Final Order.

- C. It is requested (not mandated) that Kiantone maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.