

June 28, 2021

VIA ELECTRONIC MAIL TO: mike.mears@magellanlp.com

Mr. Michael Mears
President & Chief Executive Officer
Magellan Midstream Partners, LP
One Williams Center
P.O. Box 22186
Tulsa, Oklahoma 74172

Re: CPF No. 3-2020-5026

Dear Mr. Mears:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$52,500, and specifies actions that need to be taken by Magellan Midstream Partners, LP to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Jason Smith, Vice President, Asset Integrity, Magellan Pipeline Company, LP
jason.smith@magellanlp.com
Mr. Mark Materna, Director, Pipeline Integrity, Magellan Pipeline Company, LP
mark.materna@magellanlp.com

CONFIRMATION OF RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
Magellan Midstream Partners, LP,)	CPF No. 3-2020-5026
)	
Respondent.)	
)	

FINAL ORDER

On various dates between December 11, 2018 and October 1, 2019, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a pipeline safety inspection of the facilities and records of Magellan Midstream Partners, LP’s (MMP or Respondent) hazardous liquid pipeline system in Kansas, Nebraska, South Dakota, North Dakota, Missouri, Iowa, Minnesota, Illinois and Wisconsin. MMP stores and distributes refined petroleum products and crude oil, and is based in Tulsa, Oklahoma.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 6, 2020, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that MMP had committed four violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$52,500 for one of the alleged violations, and proposed that MMP take certain correction measures to comply with the pipeline safety regulations. The warning item required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

On November 13, 2020, MMP requested a copy of the case file and an extension of time to respond to the Notice until December 18, 2020. The extension request was granted by the Director, Central Region the same day. MMP responded to the Notice by letter dated December 18, 2020 (Response). The company did not contest the allegations of violation but provided an explanation for each violation and requested to clarify and correct a statement contained in Item 5 of the Notice. Respondent did not request a hearing and therefore has waived its right to one.

¹ Magellan Midstream Partners, LP website, About Us, *available at* <https://www.magellanlp.com/AboutUs/Default.aspx> (last accessed June 15, 2021).

FINDINGS OF VIOLATION

In its Response, MMP did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.116(f)(2), which states:

§ 195.116(f)(2) Valves.

Each valve installed in a pipeline system must comply with the following:

(a) . . .

(f) Each valve must be marked on the body or the nameplate, with at least the following:

(1) . . .

(2) Class designation or the maximum working pressure to which the valve may be subjected.

The Notice alleged that Respondent violated 49 C.F.R. § 195.116(f)(2) by incorrectly marking on the valve body or the nameplate the class designation or the maximum working pressure to which the valve may be subjected. Specifically, the Notice alleged that at MMP's EDE #1-8" trap in the El Dorado East Station two valves were marked with an ANSI 400 rating (maximum working pressure of 960 psig). However, the maximum operating pressure (MOP) on the EDE #1-8" pipeline was documented as 1111 psig, and the designated maximum working pressure of the valves is 1150 psig based on the MOP list provided by MMP and reviewed by PHMSA. The Notice also proposed that MMP take certain corrective measures associated with this alleged violation as detailed in the Proposed Compliance Order (PCO).

Respondent did not contest this allegation of violation or the PCO associated with this Item, but did provide information related to improvements made to address the admitted noncompliance. Specifically, Magellan stated that "[o]n January 13, 2019, Magellan provided the PHMSA Inspector with a modification to the Management of Change Procedure, SIP-ADM-1 1.01, that requires an MOCR for the replacement of a 400 ANSI valve. Magellan also developed and implemented a new tag, MGLN-0046 in 5.02-ADM-001 Safety Sign Matrix, which reads 'WARNING This ANSI 400 valve has a MOP of 1150 psi. Valve shall not be replaced or re-worked without MOCR and input from Asset Integrity'. Magellan has tagged each of the listed 400 ANSI valves that are rated for 1150 psig accordingly."² Accordingly, based upon a review of all of the evidence and the fact that MMP did not contest the underlying allegation of violation or the PCO, I find that Respondent violated 49 C.F.R. § 195.116(f)(2) by incorrectly marking on the valve body or the nameplate the class designation or the maximum working pressure to which the valve may be subjected.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5), which states:

§ 195.452(b)(5) Pipeline integrity management in high consequence areas.

² Response, at 2.

- (a) . . .
- (b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:
 - (1) . . .
 - (5) Implement and follow the program.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to implement and follow its Integrity Management Program (IMP). Specifically, the Notice alleged that Section 6.4 Risk Analysis Overview of MMP's IMP states that each analysis for facility piping systems will be documented per the System Equipment Review Form. In reviewing Respondent's records, it was determined that 54 of the 71 facilities that could affect a high consequence area (HCA) did not have completed System Equipment Review Forms. Additionally, MMP's IMP allows for the incorporation and analysis of data collected through several distinct programs, however, these individual programs were not collectively documented and evaluated on the System Equipment Review Forms to determine if additional preventative or mitigative measures were necessary for the facilities.

Respondent did not contest this allegation of violation or the PCO associated with this Item. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to implement and follow its IMP.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)³, which at the time of the violation stated in relevant part:

§ 195.452(j) Pipeline integrity management in high consequence areas.

- (a) . . .
- (j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*
 - (1) *General.* After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.
 - (2) *Evaluation.* An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j) by failing to complete periodic evaluations to assure pipeline integrity on all of its pipeline facilities. Specifically, the

³ 49 C.F.R. § 195.452(j) was amended effective July 1, 2020. However, the above-referenced violation and subsequent safety inspection occurred prior to the date of amendment, and thus, said amendment is not applicable here.

Notice alleged that MMP identified 71 facilities that were in a HCA or could affect an HCA. Of those 71 facilities, two facilities, the Columbia Pipeline Junction and the Wathena Pipeline Junction, had not been evaluated for all the risk factors specific to the facilities. At the time of the inspection, MMP provided documentation, which showed that several reviews, analyses, or assessments had not been completed for the two facilities, including System Equipment Review Form, System Equipment Review Analysis, Facility RISK Model Questionnaire, or a Facility Risk Ranking Assessment Tool. Consequently, MMP was unable to demonstrate that all necessary inspections, assessments, and evaluations had been completed to assure pipeline integrity as required by §195.452(j)(2).

Respondent did not contest this allegation of violation and stated that it would pay the civil penalty upon receipt of a final order. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(j) by failing to complete periodic evaluations to assure pipeline integrity on all of its pipeline facilities.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h), which states:

§ 195.505(h) Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) . . .

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h) by failing to have and follow procedures for ensuring through evaluation that individuals performing covered tasks have the necessary knowledge and skills to perform the covered tasks in a manner that ensures the safe operation of its pipeline facilities. Specifically, the Notice alleged that MMP was unable to demonstrate that the individuals who performed breakout tank inspections had the necessary knowledge of MMP's covered task 27.1 Routine Monthly Inspection of Breakout Tanks as evidenced by the monthly tank inspection records. The Notice further alleged that MMP's covered task list describes Task 27.1 Routine Monthly Inspection of Breakout Tanks as, "Breakout tanks must be inspected monthly per API 653. The inspection includes the foundation, the shell, flanges, valves, and the roof." However, neither MMP's procedure 7.10-ADM-009 nor form 07-FORM-0077 provides guidance or a location to record the condition of the roof. Additionally, MMP's inspection records did not identify shell distortions, leaks, unmitigated corrosions pits, and other prevailing tank integrity threats as required by the breakout tank inspection procedures.

Respondent did not contest the underlying allegation of violation or the PCO associated with this Item, but requested rescinding a reference in the Notice to the roof inspection criteria in API RP 1161, arguing that API RP 1161 is not incorporated by reference in 49 CFR Part 195 or Respondent's procedures. I agree. Therefore the finding of violation in this Final Order does not contain reference to API RP 1161.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(h) by failing to have and follow procedures for ensuring through evaluation that individuals performing covered tasks have the necessary knowledge and skills to perform the covered tasks in a manner that ensures the safe operation of its pipeline facilities.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$52,500 for the violation cited above in Item 4.

Item 4: The Notice proposed a civil penalty of \$52,500 for Respondent's violation of 49 C.F.R. § 195.452(j), for failing to complete periodic evaluations to assure pipeline integrity on all of its pipeline facilities. MMP neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. The nature of the violation was activity-related due to the operator's failure to complete the required evaluations, the operator did not self-report the violation, and the violation occurred in a HCA or HCA could-affect area. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$52,500** for violation of 49 C.F.R. § 195.452(j).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$52,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to

⁴ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 3, and 5 in the Notice for violations of 49 C.F.R. §§ 192.116(f)(2), 195.452(b)(5), and 195.505(h), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.116(f)(2) (**Item 1**), Respondent must review all of its valves listed in the excel spreadsheet provided on November 1, 2019, and verify proper markings as required by §192.116(f) within 60 days of receipt of the Final Order.⁵
2. With respect to the violation of § 195.452(b)(5) (**Item 3**), Respondent must revise its procedures to ensure future facilities will be properly evaluated. Respondent must also complete all of its facility assessments and implement any required actions as soon as practicable. Within 60 days of receipt of the Final Order, Respondent must submit a plan with a list of all current facilities and the timing for assessment and associated actions to the Region Director for approval. Once the Region Director approves the plan, Respondent must complete the assessments per the approved plan and submit quarterly reports until completion of the plan.
3. With respect to the violation of § 195.505(h) (**Item 5**), Respondent must revise its Operator Qualifications Plan (OQ Plan) and provide additional training to ensure that individuals have the knowledge and skills necessary to identify shell distortions, leaks, unmitigated corrosions pits, and other prevailing tank integrity threats. The amended plan must be in accordance with Respondent's procedures and also address proper documentation of these findings so that further tank assessments or remedial measures may be taken.

Respondent must perform the above-referenced tasks as follows:

- a) Within 30 days upon receipt of the Final Order, Respondent must revise its OQ Plan and the plan's referenced written procedures and training materials as applicable to monthly inspections of breakout tanks, as indicated above,

⁵ The Notice did not propose a date by which the corrective measures in Item 1 must be completed. Having considered the record, I find that a deadline of 60 days from the date of this Order is reasonable and appropriate.

- and provide the revised documents to the PHMSA Central Region Office.
- b) Within 90 days upon receipt of the Final Order, Respondent must train and qualify all of its individuals who independently conduct monthly breakout tank inspections, in accordance with the written procedures and training materials described in (a) above.
 - c) Within 120 days upon receipt of the Final Order, Respondent must provide to the PHMSA Central Region Office the list of all individuals who independently conduct monthly breakout tank inspection, and the date that the training and qualification of each individual, as described in (b) above, was completed.
4. All documentation demonstrating compliance with each of the items outlined in this order must be submitted to the Director, Central Region, Pipeline and Hazardous Materials Safety Administration, 901 Locust Street, Kansas City, MO 64106.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 195, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 195.404(a) (**Item 2**) — Respondent's alleged failure to maintain current maps and records of the location and identification of its pipeline systems for multiple pipeline facilities, and Respondent's alleged failure to maintain current maps and records of the diameter, grade, type, and nominal wall thickness of all pipe.

MMP presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 28, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued