

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

VIA ELECTRONIC MAIL TO: mike.mears@magellanlp.com and
jason.smith@magellanlp.com

November 6, 2020

Mr. Michael Mears
President and CEO
Magellan Pipeline Company, LP
One Williams Center, P.O. Box 22186
Tulsa, OK 74172

CPF 3-2020-5026

Dear Mr. Mears:

From December 11, 2018 through October 1, 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 Magellan Midstream Partners, L.P. (MMP) hazardous liquid pipeline system in Kansas, Nebraska, South Dakota, North Dakota, Missouri, Iowa, Minnesota, Illinois and Wisconsin.

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. §195.116 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.

MMP violated § 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. At the 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 on the EDE #1-8” pipeline was documented as 1111 psig, and the designated the maximum working pressure of the valves is 1150 psig based on the MOP list provided by MMP and reviewed by PHMSA. MMP also provided PHMSA with internal documentation and copies of PHMSA Final Orders CPF 3521 and 3523 describing the justification for using ANSI 400 valves for the pipeline that operated at a pressure that exceeded the ANSI 400 valve rating.

However, after reviewing the documentation provided to PHMSA, Final Orders CPF 3521 and 3523 indicated that the valves should be marked with the maximum working pressure to which the valve may be subjected. Furthermore, at the time of the inspection, MMP could not provide details when requested if an additional 139 mainline valves were properly marked with the class designation or the maximum working pressure to which the valves may be subjected. This is supported by a spreadsheet provided by MMP on November 1, 2019.

2. §195.404 Map and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) Location and identification of the following pipeline facilities:

- (i) Breakout tanks;**
- (ii) Pump stations;**
- (iii) Scraper and sphere facilities;**
- (iv) Pipeline valves;**
- (v) Facilities to which §195.402(c)(9) applies;**
- (vi) Rights-of-way; and**
- (vii) Safety devices to which §195.428 applies.**

(2) All crossings of public roads, railroads, rivers, buried utilities, and foreign pipelines.

(3) The maximum operating pressure of each pipeline.

(4) The diameter, grade, type, and nominal wall thickness of all pipe.

MMP violated §195.404(a) by failing to maintain current maps and records of the location and identification of its pipeline systems for multiple pipeline facilities.

On March 19, 2019, PHMSA inspectors discovered that the Argentine Meter Station piping and instrumentation diagram (P&ID) failed to accurately depict the custody transfer location. The P&ID also failed to identify where MMP owned facilities ended and Sinclair owned facilities began.

On April 5, 2019, PHMSA inspectors discovered that the Lincoln Terminal P&ID failed to correctly identify thermal relief safety devices to which §195.428 applies with the correct maximum set points.

On June 3-7, 2019, PHMSA inspectors discovered that the 2016 pipeline replacement project had not been documented in MMP's official record keeping system PODs. The Fargo-Grand Forks #1-6" pipeline had been replaced in 2016 yet the database depicted an ANSI 400 valve installed on January 1, 1987. The ANSI 400 valve was replaced during the 2016 replacement project with a higher rated ANSI 600 valve.

MMP also violated 49 C.F.R. §195.404(a) by failing to maintain current maps and records of the diameter, grade, type, and nominal wall thickness of all pipe.

On June 3-7, 2019, PHMSA inspectors discovered that the 2016 pipeline replacement project had not been documented in MMP's official record keeping system PODs. The Fargo-Grand Forks #1-6" pipeline had been replaced in 2016 yet the database depicted a repair sleeve installed on September 16, 2014. The repair sleeve was no longer in existence and was replaced with a new pipeline during the 2016 project.

3. **§195.452 Pipeline integrity management in high consequence areas.**

(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.**

MMP violated §195.452(b)(5) by failing to implement and follow its Integrity Management Program (IMP). Specifically, 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. MMP identified 71 facilities that were in a high consequence area (HCA) or could affect an HCA. Of those 71 facilities, 54 do not have a completed System Equipment Review Forms. MMP's IMP also allows for the incorporation and analysis of data collected through several distinct programs. Examples of these programs include ultrasonic thickness inspections per API 510/570, vibration analysis of rotating equipment, and API 653 tank inspections. However, these individual programs were not collectively documented and evaluated on the System Equipment Review Forms to determine if additional preventive or mitigative measures were necessary for the facilities. Therefore, MMP failed to follow its IMP in performing analysis for 54 of its 71 facilities.

4. **§195.452 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).

MMP violated §195.452(j)(2) by failing to complete periodic evaluations to assure pipeline integrity on all of its pipelines, including facilities. 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 none of the following reviews, analyses, or assessments had been completed for these two facilities: 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).

5. §195.505 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; and . . .

MMP violated §195.505(h) by failing to have and follow its procedure for ensuring through evaluation that individuals performing covered tasks have the necessary knowledge and skills to perform certain covered tasks required by its Operator Qualification (OQ) Program in a manner that ensures the safe operation of its pipeline facilities. Specifically, MMP was unable to demonstrate that the individuals who performed breakout tank inspections had the necessary adequate knowledge of MMP's covered task 27.1 Routine Monthly Inspection of Breakout Tanks as evidenced by the monthly tank inspection records.

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." Furthermore, the covered task list also references API RP 1161 Task 27.1-Perform Routine Inspection of Breakout Tanks (API 653 Monthly or DOT Annual). Section 3 step 5 of API RP 1161 Task 27.1-1 specifically states, "Visually inspect the tank roof for the following: coating conditions, holes, pitting, and corrosion; standing or pooling water or product; floating roof out of level." 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. During PHMSA's inspection, MMP's Tank Integrity Manager made a comment that the company's OQ training for breakout tanks had room for improvement. Therefore, MMP failed to have and follow a procedure for ensuring through evaluation that individuals performing covered tasks have the necessary knowledge and skills to perform certain covered tasks, specifically breakout tank

inspections, required by its OQ Program in a manner that ensures the safe operation of its pipeline facilities.

Proposed Civil Penalty

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 documentation involved for the above probable violation(s) and recommend that you be preliminarily assessed a civil penalty of \$ 52,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$ 52,500

Warning Item

With respect to item 2, 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 item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1, 3, and 5, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Magellan Midstream Partners, L.P. 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 3-2020-5026** 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. Jason Smith, Vice President of Asset Integrity, Magellan Pipeline Company, LP
One Williams Center, OTC-9, Tulsa, OK 74172, jason.smith@magellanlp.com

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to MMP's failure to properly mark their valves maximum working pressure, MMP shall review all of their valves listed in the excel spreadsheet provided on November 1, 2019 and verify proper markings as required by §192.116(f).
2. In regard to Item Number 3 of the Notice pertaining to the failure to evaluate all of its facilities located in high consequence areas, MMP shall revise its procedures to ensure future facilities will be properly evaluated. MMP 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, MMP 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, MMP must complete the assessments per the approved plan and submit quarterly reports until completion of the plan.
3. In regard to Item Number 5 of the Notice pertaining to inadequacy of knowledge demonstrated by "operator qualified" individuals on MMP's covered task 27.1, Routine Monthly Inspection of Breakout Tanks, MMP 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 MMP's procedures and also address proper documentation of these findings so that further tank assessments or remedial measures may be taken.

MMP must perform the above-referenced tasks as follows:

- a) Within 30 days upon receipt of the Final Order, MMP 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, and provide the revised documents to the PHMSA Central Region Office.
- b) Within 90 days upon receipt of the Final Order, MMP must train and qualify all of its individuals who independently conduct monthly breakout tank inspection, in accordance with the written procedures and training materials described in (a) above.
- c) Within 120 days upon receipt of the Final Order, MMP 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 Greg Ochs, Director, Central Region, Pipeline and Hazardous Materials Safety Administration, 901 Locust Street, Kansas City, MO 64106.
5. It is requested (not mandated) that Magellan Midstream Partners, L.P maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory 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 infrastructure.