

NOTICE OF AMENDMENT

VIA ELECTRONIC MAIL TO: heath@dakota-midstream.com, tim@dakota-midstream.com
and kristopher@dakota-midstream.com

October 13, 2021

Mr. Heath Norman & Mr. Tim Reynolds
Co-Chief Executive Officers
Dakota Midstream
708 Main St., 10th Floor,
Houston, TX 77002

CPF 3-2021-060-NOA

Dear Mr. Norman & Mr. Reynolds:

On March 18, April 8, May 18-20, and May 27, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code virtually inspected Dakota Midstream LLC's (DM) procedures for operations and maintenance, damage prevention, public awareness, operator qualifications, design and construction, facilities and storage, emergency preparedness, reporting and time-dependent threats.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within DM's plans or procedures, as described below:

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) . . .
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (13) **Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

DM's procedures are inadequate because there is no documentation requirement for review of procedures for effectiveness. Also, annual review of critical procedures is specified whereas the intent is for all O&M procedures to be reviewed over a period specified by the operator. Next, the procedure does not have criteria to determine effectiveness. Finally, the focus in the current procedure is on training operators on the procedures whereas the intent of this code section is to determine if procedures are effective not if technicians are following the procedure as currently written. DM must amend its procedures to comply with 195.402(c)(13).

2. § 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(f) What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) A process for identifying which pipeline segments could affect a high consequence area;

DM's procedures are inadequate because there is no procedure for periodic review to determine if new HCAs have been identified that could be affected by DM's pipeline system and facilities. DM must amend its procedures to comply with 195.452 (f)(1). Also, the procedure must have a recordkeeping component that highlights the conclusions drawn.

3. § 195.505 Qualification program.

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

(a) Identify covered tasks;

DM's procedures are inadequate because their covered task list does not include composite wrap which is mentioned in their OQ program but not in the covered task list. Also, their covered task list does not include pipefitting of screw-type fittings or small valves. DM must amend its procedures to include all covered tasks performed on its pipeline.

4. **§ 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.

DM's procedures are inadequate because their training program contains insufficient detail regarding what, how, when, and where individuals will receive training. DM must amend its procedures to provide detail on its training program.

5. **§ 195.505 Qualification program.**

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

(a) . . .

(f) Communicate changes that affect covered tasks to individuals performing those covered tasks; and

DM's procedures are inadequate because their OQ program contains insufficient detail regarding how the operator will:

- Ensure the qualification process is communicated to the contractors performing covered tasks on behalf of the operator.
- Ensure that the process for a non-qualified person to perform a covered task is communicated to contractor personnel.
- Ensure the process for disqualification and requalification is communicated to the contractor.
- Ensure that the process for communicating any changes to the OQ plan that the contractor needs to be aware of are presented to the contractor.

Specifically, DM must amend its procedures to provide details on its communications with contractors regarding its OQ program requirements to state the what, who, how, when, and where of the process.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. 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, revised procedures, or a request for a hearing under §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 an Order Directing Amendment. If your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within [number of days] days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested (not mandated) that Dakota Midstream maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Gregory A. Ochs, Director, Central Region, OPS, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to **CPF 3-2021-060-NOA** 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

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*

cc: **Mr. Kristopher Coe, Project Manager, Dakota Midstream, LLC, 1600 Broadway, Suite 1300, Denver, CO 80202 (kristopher@Dakota-Midstream.com)**