

NOTICE OF AMENDMENT

VIA ELECTRONIC MAIL TO: dwerth@calibermidstream.com,
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December 13, 2021

Mr. Daniel Werth
Chief Executive Officer
Caliber North Dakota, LLC
950 17th Street, Suite 1000,
Denver, CO 80202

CPF 3-2021-078-NOA

Dear Mr. Werth:

On February 10, March 8-9, March 19, and April 12-13, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, conducted a virtual inspection of Caliber North Dakota LLC's (Caliber) procedures for O&M, integrity management, public awareness, and damage prevention for its Hay Butte Unit near Alexander in McKenzie County, North Dakota.

As a result of the inspection, PHMSA has identified the apparent inadequacies found within CALIBER's plans or procedures, as described below:

1. **§ 195.234 Welds: Nondestructive testing.**
 - (a)
 - (c) **Procedures for the proper interpretation of each weld inspection must be established to ensure the acceptability of the weld under § 195.228.**

Caliber's procedures were inadequate because they failed to convey that only Level II or Level III NDT personnel are allowed to interpret results as required by API Standard 1104 20th Edition Section 9. Also missing were procedures for nondestructive testing and standards of acceptability. On August 19, 2021 Caliber submitted amended procedures that satisfactorily addressed this issue. No further action is required.

2. **§ 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:
 (3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Caliber's procedures were inadequate because they did not cover prioritizing repairs, as required by § 195.401(b)(3). Caliber must amend its procedures to address the prioritization of repairs.

3. **§ 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:
 (3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Caliber's operations and maintenance (O&M) procedural manual was inadequate to assure the safe operation of the pipeline. Specifically, O&M Manual Section 2.19.10.7 required operator personnel to fill out Form OPS23 to document findings from tank inspections, but it did not require that the information populated on Form OPS23 was accurate. This inadequacy resulted in operating personnel being unaware that Tank 300 and Tank 320 level controls were operational on September 1, 2019. Personnel continued marking these controls as inoperable on the monthly tank inspection Forms (OPS23) until August 2, 2020. Caliber must review and modify its procedures to include some mechanism of quality control and approval of the information populated on OPS23 forms, through a requirement for supervisory approval signature or a similar mechanism.

4. **§ 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:
 (3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Caliber's procedures were inadequate because they did not require correction of corrosion control deficiencies within a reasonable amount of time or, if an immediate hazard exists, to not operate the facility until corrected, as required by § 195.573(e). On August 19, 2021, Caliber submitted amended procedures which address and specify that corrosion control deficiencies must be corrected by next inspection cycle. However, it did not address the procedures for mitigating an immediate hazard. On August 23, 2021, Caliber submitted further procedure amendments that satisfactorily address mitigating an immediate hazard. No further action is required.

5. § 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:

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Caliber's procedures were inadequate because O&M Manual Section 2.12.2, on internal corrosion control, said only that procedures will be developed after material is tested to determine if it is corrosive. This does not include adequate guidance for investigating and remediating the corrosive effects of hazardous liquids, as required by § 195.579(a). Caliber must amend its procedures to provide criteria for investigating the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and steps to mitigate internal corrosion.

6. § 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:

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Caliber's procedures were inadequate because they did not contain the four main parts of an External Corrosion Direct Assessment (ECDA) Plan and did not address the requirements of NACE SP0502-2010, as required by § 195.588(b)(1). Also missing was the more restrictive criteria on initial application of ECDA. Caliber must amend its procedures to address the requirements of § 195.588.

7. § 195.440 Public awareness.

(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (IBR, see § 195.3).

Caliber's public awareness procedures were inadequate because the statement of management support required by API RP 1162 section 2.7 Step 2 did not demonstrate commitment of management participation and allocation of resources and funding, as required by API RP 1162 Section 2.5. Caliber submitted on August 19, 2021 Version 1.0 of 2021 that adequately addressed this issue. No further action is required.

8. § 195.440 Public awareness.

(a)

(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

Caliber's public awareness procedures were inadequate because they did not list the specific

pipeline system assets in the plan, as required by API RP 1162 Section 2.7 step 4. . Caliber submitted on August 19, 2021, its Public Awareness Plan Version 1.0 of 2021 that adequately addressed this issue. No further action is required.

9. § 195.440 Public Awareness.

(a)

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Caliber's public awareness procedures were inadequate because the messages, delivery methods, and delivery frequencies in the Plan were from Table 2-3 – Summary Public Awareness Communications for Gathering Pipeline Operators from API RP 1162, whereas, the appropriate table to follow in API RP 1162 for a fully regulated hazardous liquid pipeline system like the Hay Butte unit is Table 2-1 – Summary Public Awareness Communications for Hazardous Liquids and Natural Gas Transmissions Pipeline Operator. Next, missing from the procedures were the relevant factor considerations for supplemental messages (API RP 1162 Section 6.2). Finally, missing from the plan were the specification of a maximum four-year interval for effectiveness evaluations (API RP 1162 Section 8.5, Table 8-1). Caliber submitted, on August 19, 2021, Public Awareness Plan Version 1.0 of 2021 that adequately addressed the four-year effectiveness evaluation issue and the supplement program relevant factors issue. However, Public Awareness Plan Version 1.0 2021 was missing the required message of pipeline location information and availability of NPMS in 15.1.3 for the Public Officials audience. On August 25, 2021, Caliber submitted further amendments that addressed the missing message. No further action is required.

10. § 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;

Caliber's IMP Procedures, Section 4.8, were inadequate because they did not contain sufficient criteria to ensure the air dispersion model fits the product, type of release, and contains the appropriate thresholds of concern for the product to ensure that all could affect and direct intersect high consequence areas are determined. Caliber must amend its procedures to address these items.

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 Caliber North Dakota LLC 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 3-2021-078-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: Ms. Allison Porter, Director of Operations and Engineering, 950 17th Street, Suite 1000, Denver, CO 80202, (aporter@calibermidstream.com)

Ms. Katie Johnson, Operations Engineer, 950 17th Street, Suite 1000, Denver, CO 80202, (kjohnson@calibermidstream.com)