

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

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergyllp.com;
jennifer.eckels@tallgrassenergyllp.com; brad.armsbury@tallgrassenergyllp.com;
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November 30, 2021

William Moler
Chief Executive Officer
Tallgrass Pony Express Pipeline, LLC
4200 W. 115th St. Suite 350
Leawood, KS 66211

CPF 3-2021-089-NOPV

Dear Mr. Moler:

From May 10 through August 13, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Tallgrass Pony Express Pipeline, LLC (Tallgrass) records and facilities in Colorado, Wyoming, and Kansas.

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. § 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.**
 - (a)**
 - (b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:**
 - (1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);**
 - (i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2;**

Tallgrass failed to satisfy the requirements of Section 22.11.2 of NFPA-30 (2012 edition) regarding impoundment around breakout tanks. Section 22.11.2.6, NFPA-30 (2012 edition) requires that “[e]ach diked area containing two or more tanks shall be subdivided, preferably by drainage channels or at least by intermediate dikes, in order to prevent minor spills from a tank from endangering adjacent tanks within the diked area.”¹

PHMSA’s field inspection of Tallgrass's tanks at the Pawnee, Grassland, and Buckingham facilities (built to API std 650 after October 2, 2000) found that Tallgrass failed to subdivide the tanks, and failed to have drainage channels or intermediate dikes installed in accordance with the referenced standard and the regulation. The tanks found to be out of compliance are identified below. The proposed civil penalty below applies to the Grassland and Buckingham locations.

Location	Tank	Year Built
Pawnee	T100-1	2015
Pawnee	T100-2	2015
Pawnee	T100-3	2016
Grassland	3151	2019
Grassland	3152	2019
Buckingham	4151	2017
Buckingham	4152	2017
Buckingham	4251	2020
Buckingham	4252	2020

2. § 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a)

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following sections of NFPA-30 (incorporated by reference, see § 195.3);

(i)

(ii) Impoundment by drainage to a remote impounding area must be installed in accordance with section 22.11.1.

Tallgrass failed to satisfy the requirements of Section 22.11.1 of NFPA-30 (2012 edition) regarding drainage routes. Section 22.11.1, NFPA-30 (2012 edition) requires that "control of spills is provided by drainage to a remote impounding area so that spilled liquid does not collect around tanks."² Section 22.1.1.1, NFPA-30 (2012 edition) requires that drainage routes shall slope away from the tank and toward the impounding area.

¹ NFPA 30 2012 edition page 30-81/ Section 22.11.2.6.

² NFPA 30 2012 edition page 30-80/ Section 22.11.1

PHMSA's field inspection of Tallgrass's tanks 5151, 5152, 5251, 5252, 5253, 5254, and 5255 (all built to API std 650 after October 2, 2000), and as-built containment for the Sterling facility found Tallgrass failed to have an adequate drainage route towards the remote impounding area in accordance with the regulation.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 \$59,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$59,400

Proposed Compliance Order

With respect to items 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tallgrass. 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 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 3-2021-089-NOPV** 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: Jennifer Eckles, Director Compliance, jennifer.eckels@tallgrassenergyllp.com
Crystal Heter, Chief Operating Officer, crystal.heter@tallgrassenergyllp.com
Brad Armsbury, Compliance Engineer, brad.armsbury@tallgrassenergyllp.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item Number 1 of the Notice pertaining to impoundment around breakout tanks, Tallgrass must:
 - (i) Subdivide, either by drainage channels or at least by intermediate dikes, in accordance with NFPA 30 at Pawnee, Grassland, and Buckingham facilities within **twelve (12)**, months of receipt of the Final Order.
 - (ii) Submit to the Director, Central Region, evidence of remediated locations to demonstrate compliance with NFPA 30.
- B. In regard to Item Number 2 of the Notice pertaining to control of spills by drainage routes around breakout tanks and sloping away, Tallgrass must:
 - (i) Provide adequate drainage routes and slope to a remote impounding area so that spilled liquid does not collect around tanks, in accordance with NFPA 30 at Sterling facility within **twelve (12)**, months of receipt of the Final Order.
 - (ii) Submit to the Director, Central Region, evidence of remediated locations to demonstrate compliance with NFPA 30.
- D. It is requested that Tallgrass maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, OPS, 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.