



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: aaron.milford@magellanlp.com;
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August 24, 2023

Aaron L. Milford
Chief Executive Officer
Magellan Midstream Partners, LP
P.O. Box 22186
Tulsa, Oklahoma 74172

CPF 3-2023-022-NOPV

Dear Mr. Milford:

From February 7, 2022, to October 14, 2022, of the on-site inspection, 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.), performed an on-site inspection of Magellan Midstream Partners, LP's (Magellan) Central, North, and Razorback system records and facilities in Arkansas, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin.

As a result of the inspection, it is alleged that Magellan has 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;**

Magellan failed to satisfy the requirements of Section 22.11.2 of NFPA-30 (2012 Ed.) regarding impoundment around breakout tanks. Section 22.11.2.6 of NFPA-30 (2012 Ed.) 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.”^a

PHMSA’s field inspection of Magellan tanks 1516, 1517, 1521, and 3502 at the Kansas City East Tank Farm facility (built to API std 650 after October 2, 2000) in Kansas City, Kansas, found that Magellan failed to subdivide the tanks, and failed to have drainage channels or intermediate dikes installed in accordance with the referenced standard and the regulation.

Magellan responded on October 31, 2022, with the preliminary proposed improvements to bring the Kansas City East Tank Farm into full regulatory compliance with § 195.264(b)(1)(i).

2. § 195.402 Procedural manual for operations, maintenance, and emergencies

- (a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

Magellan failed to follow procedures for conducting normal operations and maintenance activities and handling abnormal operations (AO) and emergencies. Specifically, Magellan failed to take corrective action where deficiencies were found during abnormal operations. Specifically, procedure SIP-ADM-13.01 Incident Reporting section 3.2.8 requires AO reports to be reviewed and completed, and section 3.5.1 states, ‘Review, analyze, and prepare quarterly AO trend report to identify trends and common issues that should be shared within the Company.’ Additionally, procedure 9.02-ADM-003, Abnormal Operations, details how Magellan responds and manages AOs. Section 2.3.3 states, ‘Complete all applicable portions for Operations Control in the Incident Reporting

^a NFPA 30 Flammable and Combustible Liquids Code (2012 edition), at 30-81, Section 22.11.2.6.

System for the AO.” Furthermore, procedures do not indicate a timeframe when AO reviews will be completed.

From a review of records, PHMSA found that Magellan failed to complete all applicable portions of Operations Control in the Incident Reporting System for the AOs by not taking corrective actions for two AO events dated on March 23, 2019, and April 24, 2020. These two abnormal operation events were marked as “needs follow-up” but the follow up was not completed.

Magellan has since addressed these two issues but has not amended its procedure requiring a timeframe for AO reviews to be completed to ensure corrective action is taken where deficiencies were found.

3. § 195.402 Procedural manual for operations, maintenance, and emergencies

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

Magellan failed to follow procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, Magellan failed to maintain a record of each inspection and test as required under § 195.428(a) for five devices at Fargo, North Dakota, in calendar year 2019 and two devices in Mason City, Iowa, in calendar year 2020. Procedure 7.13-ADM-0741 PCD Inspection Procedure Section 2.6 requires 07-FORM-0741 to be retained for at least three years.

During the field inspection and records review at Fargo, North Dakota, PHMSA found that five devices were not properly documented as required by the procedure. Specifically, the setting-left (as-left) was not completed for device numbers PI8303, PSV0323, PSV022, PSV0310, and PSV0309.

During the field inspection and records review at Mason City, Iowa, PHMSA found that two devices were not documented as required by the procedure. Specifically, the records for devices PSH 1010 and PSH1020 were not available for review.

4. § 195.404 Maps and records

(a)

(c) Each operator shall maintain the following records for the periods specified:

(1)

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

Magellan failed to maintain a record of each inspection and test required for at least 2 years or until the next inspection or test is performed. Magellan failed to maintain a record of each inspection of the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks in accordance with Section 6.3.1 of API 653 (3rd edition, December 2001). Section 6.3.1.1 requires the external condition of the tanks to be monitored by close visual inspection from the ground on a routine basis and Section 6.3.1.2 requires “the interval of such inspections shall be consistent with conditions at the particular site, but shall not exceed one month.”^b

Specifically, there were eight missing records for Tank 408 in Nebraska City, Nebraska. These were for April of 2021 and January through July of 2022.

5. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Magellan failed to inspect the surface conditions on or adjacent to each pipeline right-of-way (ROW) with an acceptable method.

Specifically, Magellan did not maintain the pipeline right-of-way conditions at a level that allowed for effective aerial inspection of the surface conditions on or adjacent to the ROW and did not select an alternate patrol method that would allow effective inspection based on the condition of the ROW. PHMSA’s onsite inspection discovered excessive vegetation cover over the ROW in Grand Forks, North Dakota near 34th street and Desert Star Lane. This location had been aerially patrolled, however, no deficiencies in the ROW condition were called out by the patrol.

6. § 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical

^b API 653, Tank Inspection, Repair, Alteration, and Reconstruction (3rd edition) page 6-1, Section 6.3.1.

condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

Magellan failed to inspect and test two devices at its Roland, Iowa facility for calendar year 2020.

During the field inspection and records review of Roland, Iowa, facility, PHMSA found that two devices, thermal relief MLBV 64 and thermal relief MLBV 65, were not inspected and tested. This is a repeat violation found in CPF# 320195007 Item 2.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 \$219,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$ 65,100
5	\$ 68,800
6	\$ 85,600

Proposed Compliance Order

With respect to Items 1, 2 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, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct an additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2023-022-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: Katie McCullough, P.E. Manager, Integrity Management and Regulatory Compliance, Katie.McCullough@MagellanLP.com
Mark Materna, Director Pipeline Integrity, mark.materna@magellanlp.com
Mike Pearson, Sr. VP Technical Services, mike.pearson@magellanlp.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice pertaining to Magellan's failure to satisfy the requirements of Section 22.11.2 of NFPA-30 (2012 edition) regarding the impoundment around breakout tanks, Magellan must:
 - (i) Subdivide the tanks preferably by drainage channels or at least by intermediate dikes, in accordance with NFPA 30 at the Kansas City East Terminal 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 2 of the Notice pertaining to Magellan's failure to take corrective action on two documented abnormal operations (AO), Magellan must make amend its procedures to incorporate timeframe requirements for the review, corrective action, and documentation of AOs to ensure timely corrective action is completed where deficiencies are found. The revised procedures shall be submitted to the Director, PHMSA Central Region for review and approval within 60 days of receipt of the Final Order.

- C. In regard to Item 5 of the Notice pertaining to Magellan's failure to inspect the surface conditions on or adjacent to each pipeline right-of-way (ROW) with an acceptable method, Magellan must perform a patrol of the ROW using an effective method suited to the ROW conditions. Additionally, Magellan must amend its procedures for aerial patrolling to require that the patrol pilot document vegetation overgrowth and deficiencies in the ROW condition. Amended procedures shall be sent to Gregory A. Ochs, Director, PHMSA Central Region for review and approval within 60 days of receipt of the Final Order.

- D. It is requested that Magellan Midstream Partners, LP 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.