

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

May 26, 2020

Greg McIlwain
Senior Vice President, Operations
Rose Rock Midstream, L.P.
1300 Main Street
Houston, Texas 77002

CPF 4-2020-5010

Dear Mr. McIlwain:

On July 23, 2018 through July 19, 2019, 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 your Rose Rock Midstream L.P. (Rose Rock) Pipeline system in the Oklahoma and Kansas operating areas. At the time of the inspection these assets were operated by Rose Rock Midstream L.P. (Operator ID 31476), a subsidiary of SemGroup Corporation. Energy Transfer LP merged with SemGroup Corporation in December 2019 and acquired its assets, including Rose Rock. 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. §195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(1) The internal design pressure of the pipe determined in accordance with §195.106. However, for steel pipe in pipelines being converted under §195.5, if one or more factors of the design formula (§195.106) are unknown, one of the following pressures is to be used as design pressure:

(i) Eighty percent of the first test pressure that produces yield under section N5.0 of Appendix N of ASME/ANSI B31.8 (incorporated by reference, *see* §195.3), reduced by the appropriate factors in §§195.106(a) and (e); or

(ii) If the pipe is 12³/₄ inch (324mm) or less outside diameter and is not tested to yield under this paragraph, 200 psi (1379 kPa)

(2) The design pressure of any other component of the pipeline.

(3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Subpart E of this part.

(4) Eighty percent of the factory test pressure or of the prototype test pressure for any individually installed component which is excepted from testing under §195.305.

(5) For pipelines under §195.302(b)(1) and (b)(2)(i), that have not been pressure tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for 4 or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

Rose Rock failed to establish a maximum operating pressure (MOP) for its Riverside to Hanston and Hanston to Hudson pipeline segments in accordance with 49 CFR § 195.406. The pipeline has been operating without an established MOP.

Rose Rock failed to maintain records of pressure tests or operational pressures for two of twelve pipeline segments and were unable to locate records for the Riverside to Hanston and Hanston to Hudson segments of line at the time of the PHMSA inspection to demonstrate the two segments were testing in accordance with Subpart E to establish an MOP.

2. §195.420 Valve Maintenance.

(b) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

Rose Rock failed to inspect each mainline valve to determine that it is functioning properly at intervals not exceeding 7½ months, but at least twice each calendar year. Rose Rock was unable to provide documentation to validate the inspection of several valves in their system for calendar year 2018.

Six (6) valves in the Kansas area had no documentation to verify they were inspected in the 2nd half of 2018. The valves had been inspected prior to and after, as their inspection scheduled designated with no maintenance issues.

3. §195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

Rose Rock failed to complete an external in-service breakout tank (BOT) inspection on two tanks in accordance with API 653 Section 6.3 *Inspections from the Outside of the Tank*. API 653 Section 6.3 requires external in-service BOT inspections every 5 years.

PHMSA's review of the certified API 653 inspection documents provided by Rose Rock at the time of the inspection found that at the Kansas Tank Farm two BOTs exceeded the 5-year requirement by 24 (Tank 1008) to 49 days (Tank 0301). At the Cushing Tank Farm, thirteen BOTs exceeded the 5-year requirement by 17 (Tank 3505) to 179 days (Tank 2534).

4. §195.432 Inspection of in-service breakout tanks.

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

Rose Rock failed to complete an initial internal out-of-service BOT inspection on three tanks in accordance with API 653 Section 6.4 *Internal Inspection*. API 653 Section 6.4 requires initial internal out-of-service inspections within the first 10 years of operation.

At the time of the PHMSA inspection, Tanks #2524 (in-service 3/1/2009), #2525 (in-service 1/31/2009), #3504 (in-service 2/24/2009), and #3505 (in-service 6/24/2009) were still in-service. For each of the tanks had not been taken out of service to perform the initial internal out-of-service inspections within the first ten years of operation as required.

Rose Rock provided information following the inspection to demonstrate the Tanks were inspected or removed from service for inspection following our inspection.

5. §195.452 Pipeline Integrity Management

(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: Rose Rock failed to comply with the requirements of their IM plan.

(8) A process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see paragraph (h)(2) of this section).

Rose Rock failed to perform its review of integrity assessment results and information analysis by a person qualified to evaluate the results and information in accordance with §195.452(f)(8). Rose Rock's written Integrity Management Plan Section 1.3 Responsible Person identifies the Pipeline Integrity Specialist as the responsible party to perform Tasks to develop, analyze, and collaborate with other departments to implement the Integrity Management Plan.

Rose Rock's Pipeline Integrity Specialist, on several occasions during the inspection, was unable to access the integrity management plan documentation, which limited his ability to evaluate the results and information from integrity assessments. Rose Rock's Integrity Management Plan, Section 0.6 Roles and Responsibilities, the Pipeline Integrity Specialist is responsible for overseeing and implementing all aspects of the IM plan to include direct access to all parts of the IM plan. Without such information, an adequate review cannot be performed.

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. 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 \$84,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$40,400
3	\$15,200
4	\$28,600

Warning Items

With respect to items 2 and 5, 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 this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Rose Rock Midstream, 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 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 4-2020-5010** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regards to Item 1 of the Notice pertaining to missing test records, Rose Rock shall maintain a 20% pressure reduction for the segments identified below until such time Rose Rock provides records to PHMSA that conform to the requirements of §195.310 and demonstrate the two segments identified below have been pressure tested in accordance with Subpart E of 49 CFR 195.
 - Riverside to Hanston
 - Hanston to Hudson
2. In regards to Item 1 Rose Rock must provide pressure test records to PHMSA, Southwest Region Director no later than 180 days from Final Order.
3. It is requested (not mandated) that Rose Rock Midstream, L.P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, P.E., Director, Southwest 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.