

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

January 21, 2022

George Green
President & Chief Executive Officer
DCP Midstream
370 17th Street
Denver, Colorado 80202

CPF 4-2022-009-NOPV

Dear Mr. Green:

From February 22, 2021 through September 24, 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 DCP Midstream's (DCP) Marysville Storage Field in Marysville, Michigan.

As a result of the inspection, it is alleged that DCP 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. § 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) Location and identification of the following pipeline facilities:

(i) . . .

(ii) Pump stations;

DCP failed to maintain current records of its jurisdictional pipeline systems in accordance with § 195.404(a)(1)(ii). During the September 20 through 24, 2021 field inspection, DCP personnel were not able to determine which pumps at the Marysville Storage Field were under federal jurisdiction. PHMSA reviewed flow diagrams of the facility and found that there are a total of four pumps, including those that are part of the expanded ethane storage system, that fall under federal jurisdiction.

However, operations and maintenance records presented during the inspection do not indicate DCP has incorporated the ethane storage system units and associated appurtenances into its maintenance program as required under § 195.404.

2. § 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.

DCP failed to inspect the surface conditions on or adjacent to its pipeline rights-of-way while performing ground patrols at intervals not exceeding three weeks, but at least 26 times each calendar year in accordance with § 195.412(a). DCP's written *Liquid Pipeline O&M Manual, Procedure Number F-18, Inspection of: Right of Way, Crossings and Under Navigable Water, Procedure 1 - Onshore Inspections* (Date Revised 10/28/2020), requires that onshore inspections be performed at intervals not exceeding three weeks (21 days), but at least 26 times each calendar year.

During the September 20 through 24, 2021 field inspection, DCP's Plant Supervisor stated that daily shift patrols and weekly patrols were performed at the Marysville Storage Field. However, DCP could not reference any procedures that detailed this requirement. PHMSA reviewed patrol records for calendar years 2019, 2020, and 2021 and found 15 inspections that exceeded the 3-week (21-day) interval during the three calendar years reviewed. In addition, PHMSA found that patrols were not performed 26 times per year for calendar years for 2019 and 2020. Patrol records show a total of 29 patrols from June 30, 2019 to September 24, 2021.

3. § 195.420 Valve maintenance.

(a) ...

(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

DCP failed to conduct inspections for each mainline valve to determine that it is functioning properly at intervals not exceeding 7 ½ months but at least twice each calendar year in accordance with § 195.420(b). DCP's written *Liquid Pipeline O&M Manual, Procedure Number F-19, Valve Inspection and Maintenance, Procedure 1 - General* (Date Revised 11/26/2019), requires that "each identified mainline valve shall be inspected at intervals not exceeding 7 ½ months, but at least twice each calendar year."

PHMSA reviewed mainline valve inspections for DCP's Marysville Storage Field and found 218 inspections that exceeded the required 7 ½-month interval during calendar years 2018, 2019, 2020, and 2021. PHMSA also discovered that inspections were not performed twice each calendar year for 231 inspections in calendar years 2019 and 2020 in violation of DCP's written procedures and § 195.420(b).

During the review of the mainline valve inspections, PHMSA inspectors found that the valve inspection records appeared to be inaccurate in that the DOT valves were listed on both DOT Liquid Valve Inspection Forms and Non-DOT Liquid Valve Inspection Forms, and DCP personnel were not confident in the accuracy of the list of DOT valves provided during the inspection.

4. § 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) . . .

(4) *Emergency Flow Restricting Devices (EFRD)*. If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors—the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size.

DCP failed to conduct an EFRD analysis to consider all of the factors provided in § 195.452(i)(4) to determine what preventive and mitigative measures must be taken to protect its pipeline in high consequences areas. DCP’s written *Integrity Manual, Integrity Procedures, IP-008 Preventative and Mitigative Measures, P&MMs Related to Consequence* (Version 5.1, September 2019), requires an EFRD analysis be conducted “to improve knowledge or understanding of consequence” as a preventative and mitigative measure related to consequence.

PHMSA reviewed DCP’s Pipeline Integrity Form 58, *Emergency Flow Restricting Device (EFRD) Evaluation for Marysville Segment* (final review dated 12/20/2016). DCP performed the EFRD analysis on December 7, 2016. In the evaluation’s summary, DCP determined that “[c]urrent operating procedures, daily shift and weekly patrols, and control capabilities provide a significant level of risk reduction that meets DOT requirements.” Daily shift and weekly patrols performed by operations personnel at the Marysville Storage Field was one of the factors considered in the decision whether to install EFRDs at the facility.

However, as noted above, PHMSA’s review of patrol records for calendar years 2019, 2020, and 2021 found that operations personnel were not performing daily shift or weekly patrols of the facility.

5. § 195.583 What must I do to monitor atmospheric corrosion control?

(a) . . .

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

DCP failed to monitor its pipelines for atmospheric corrosion by giving particular attention to pipe at pipe supports. DCP's written *Standard Operator Procedure, Procedure Number: CORR-5020, Atmospheric Pipe Inspection, Procedure 1.1.7 Concealed areas under tie-down straps or supports* (Date: 3/18/2021), requires: "If inspections under tie-down straps or other concealed surfaces show visual evidence of corrosion, additional steps shall be taken to inspect under the surface."

PHMSA reviewed atmospheric corrosion inspection records for calendar years 2016 and 2019 and found that inspections were not performed for pipe at pipe supports. During the field inspection, there were several pipes in the meter building that presented coating damage and evidence of corrosion. Records reviewed did not show that any additional steps were taken to inspect under the surfaces of those pipe in accordance with DCP's procedure and § 195.583(b).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, DCP Midstream is 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 violations 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 violations 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 violations 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 violations 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 **\$157,100** as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$75,600
3	\$81,500

Warning Items

With respect to Items 1, 4, 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 these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 2 and 3, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to DCP Midstream. 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 4-2022-009-NOPV** 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

cc: John Pontious, Manager, Pipeline Compliance, DCP Midstream,
jdpointious@dcpmidstream.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 2 of the Notice pertaining to inspections of the surface conditions on or adjacent to pipeline rights-of-way while performing ground patrols, DCP must update its procedures to address patrolling facilities, specifically the daily shift and weekly patrols mentioned by DCP personnel. The updated procedure must be provided to PHMSA for review within 60 days of receipt of the Final Order.
- B. In regard to Item 3 of the Notice pertaining to DCP's failure to follow its *Liquid Pipeline O&M Manual, Procedure Number F-19, Valve Inspection and Maintenance, Procedure 1 - General* (Date Revised 11/26/2019), DCP must determine which valves at Marysville Storage Field are DOT jurisdictional valves that are integral to the safe operation of the pipeline system, such as those used for station isolation and segment isolation. DCP must also determine which components at the Marysville Storage Field, including pumps, fall under federal jurisdiction, and update its procedures and records to ensure regulated pipe and components are included in its records as jurisdictional. The list of DOT valves and other components that fall under federal jurisdiction at the facility, and associated drawings used to make jurisdictional determinations, must be provided to PHMSA within 30 days of receipt of the Final Order.

It is requested (not mandated) that DCP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, 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.