

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

VIA ELECTRONIC MAIL TO: Matthew Dunne@wplco.com

March 31, 2022

Mr. Matthew Dunne
Vice President and Manager
Wolverine Pipe Line Company
8075 Creekside Drive, Suite 210
Portage, Michigan 49024

CPF 1-2022-023-NOPV

Dear Mr. Dunne:

From November 16, 2020 to November 20, 2020, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Wolverine Pipeline Co (Wolverine) Control Room in Portage, Michigan that controls and monitors Wolverine Pipe Line facilities in Michigan.

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. **§ 195.446 Control room management.**
 - (a) ***General.* This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section...**

Wolverine failed to follow its *WPLCO OCC Control Room Management Plan*, Section 8.27 Alarm Management Review which required a review of its alarm management plan at least once each calendar year, at intervals not to exceed 15 months for the 2018 calendar year, in accordance with § 195.446(e)(4).

During the inspection, PHMSA requested records of the annual reviews of Wolverine’s alarm management plan for 2018, 2019 and 2020. Wolverine presented records demonstrating that its plan was reviewed in 2017, 2019 and 2020. The records of the 2018 review were not presented.

Therefore, Wolverine failed to its *WPLCO OCC Control Room Management Plan*, Section 8.27 Alarm Management Review which required that it perform an annual review of its alarm management plan in 2018, as required by § 195.446(e)(4).

2. § 195.446 Control room management.

(a) ...

(c) ***Provide adequate information.*** Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) ...

(3) **Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months.**

Wolverine failed to test and verify an internal communication plan for providing adequate means for manual operation of its pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months.

During the inspection, Wolverine was asked to submit records demonstrating that they had tested and verified its internal communication plan for manual operation of the pipeline in 2018, 2019 and 2020. Records provided by the operator showed that it only created a plan in 2020, after an actual loss of SCADA and Corporate network on 1/20/2020. The SCADA loss led to investigation report # 252877 which recommended an annual testing plan.

Therefore, Wolverine failed to test and verify an internal communication plan for manual operation of its pipeline safely in 2018 and 2019.

3. § 195.446 Control room management.

(a) ...

(e) ***Alarm management.*** Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator’s plan must include provisions to:

(1) ...

(5) Monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, that will assure controllers have sufficient time to analyze and react to incoming alarms;

Wolverine failed to include in its written alarm management plan provisions to monitor the content and volume of general activity being directed to and required of each controller at least once each calendar year, but at intervals not exceeding 15 months, to assure controllers have sufficient time to analyze and react to incoming alarms.

During the inspection, PHMSA requested Wolverine's procedures for monitoring the content and volume of general activity being directed at the controllers to assure that the controllers have sufficient time to analyze and react to incoming alarms. Wolverine provided its *WPLCO OCC Control Room Management Plan*, Section 8.26 (CRM Section 8.26), which contained a one sentence recitation of the regulation. CRM Section 8.26 did not contain a process or metrics describing how to assure that the controller has sufficient time to analyze and react to incoming alarms.

Wolverine also submitted its workload studies for 2017, 2018 and 2019 to explain how CRM Section 8.6 is implemented. However, the records presented did not clarify the process or provide evidence of a clear understanding of the regulatory requirements. Moreover, the records relied primarily on feedback from the controllers.

Therefore, Wolverine failed to include in its written alarm management plan provisions to monitor the content and volume of general activity being directed to and required of each controller to assure controllers have sufficient time to analyze and react to incoming alarms.

4. § 195.446 Control room management.

(a) ...

(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) ...

(5) For pipeline operating setups that are periodically, but infrequently used, providing an opportunity for controllers to review relevant procedures in advance of their application.

Wolverine failed to establish a controller training program that included an opportunity for controllers to review relevant procedures in advance of their application for pipeline operating setups that are periodically, but infrequently, used.

During the inspection, PHMSA requested training procedures and documentation relevant to operating setups that are periodically, but infrequently, used. Wolverine referred to its *WPLCO OCC Control Room Management Plan*, Section 11 (CRM Section 11). CRM Section 11 recited the regulations but failed to include any training details or a list of infrequently used operating setups and procedures. CRM Section 11.1, *Controller Training for Roles and Responsibilities*, stated that “[t]he full guidance, philosophy, and annual review documentation are in the Operations Control Center training program document.”

A review of the Infrequent Operation section of the Operations Control Center training program document, stated that “a list of infrequent operations is available for review for all controllers. This guide will provide a general overview of the operation, point to specific documents as applicable...” However, upon request for this guide, Wolverine was unable to provide it or any related documentation.

Therefore, Wolverine failed to establish a controller training program that included an opportunity for controllers to review relevant procedures in advance of their application for pipeline operating setups that are periodically, but infrequently, used.

Proposed Compliance Order

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 documents involved in this case and have decided not to propose a civil penalty assessment at this time.

With respect to Item 3, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Wolverine Pipeline Co. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Items 1, 2, and 4, 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.

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. 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, 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 1-2022-023-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Wolverine Pipeline Co (Wolverine) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Wolverine with the pipeline safety regulations:

- A. In regard to Item 3 of the Notice pertaining to § 195.446(e)(5), Wolverine must revise its *WPLCO OCC Control Room Management Plan* to include a detailed procedure for conducting workload studies pursuant to § 195.446(e)(5). The revised procedure must be submitted for PHMSA's review and approval within 30 days of the Final Order.
- B. In regard to Item 3 of the Notice pertaining to § 195.446(e)(5), Wolverine must conduct a quantitative analysis of the tasks undertaken by the controllers and determine if the controllers have adequate time to respond to alarms, in accordance with the procedures established in Item A above. The study should be undertaken per day shift, night shift and include seasonal variations. Wolverine must complete this study within 180 days of the Final Order.
- C. It is requested (not mandated) that Wolverine Pipeline Co maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.