



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

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

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

VIA E-MAIL TO MR. CALEB DILL

April 12, 2022

Mr. Caleb Dill
Operations Superintendent
FDL Operating, LLC
Salt Creek Field Office
38250 Gas Plant Road County 131
Midwest, WY 82643

CPF 5-2022-038-NOPV

Dear Mr. Dill:

Between July and October 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected FDL Operating, LLC's (FDL Operating) Salt Creek CO2 Pipeline and Monell CO2 Pipeline in Wyoming.

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. §195.573 What must I do to monitor external corrosion control?

(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) ...

(2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, *see* § 195.3).

FDL Operating failed to identify, not more than 2 years after cathodic protection was installed, the circumstances in which a close-interval survey or comparable technology was practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169, when determining if cathodic protection required by Subpart H of Part 195 complies with § 195.571. At the time of inspection, FDL Operating could not provide PHMSA with records demonstrating compliance with this requirement.¹

2. § 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) ...

(vii) Safety devices to which § 195.428 applies.

FDL Operating failed to maintain current maps and records of its pipeline systems, including accurately identifying the location and identification of safety devices to which § 195.428 applies pursuant to the requirements set forth in § 195.404(a)(1)(vii). Specifically, the pressure transmitter installed at Monell Station, a safety device to which § 195.428 applies, had multiple conflicting tag numbers. The 2019 and 2020 inspection forms completed by the operator indicated that the tag number was 226. The 2021 inspection form, however, stated that the tag number was 220. Additionally, the P&ID drawing stated that the tag number was 222. FDL Operating staff indicated that all the different tag numbers were related to the same pressure transmitter. As such, the maps and records for Monell Station did not accurately identify the safety devices to which § 195.428 applies.

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

¹ *See* § 195.589(c)(requiring that operators maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by Subpart H of Part 195 in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist, and requiring that records pursuant to § 195.573(a) be retained for as long as the pipeline remains in service).

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 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to FDL Operating, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Item 2, 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 5-2022-038-NOPV** and, for each

document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Dustin Hubbard
Director, Western Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 M. Petronis (#21-219857)

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 1 of the Notice, within **90** days of receipt of the Final Order, FDL Operating, LLC must retain the services of a qualified NACE Technician or Professional Engineer to perform a study to determine whether a Close Interval Survey (CIS), or comparable technology, is necessary and practicable to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 for its Salt Creek and Monell CO2 pipelines. If the study determines that a CIS, or comparable technology, is necessary for the entire length, or a portion of, these pipelines, FDL Operating LLC must complete such CIS or comparable technology within **30** days of the results of the study.

- B. It is requested (not mandated) that FDL Operating, LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Dustin Hubbard, Director, Western 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.