

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

OVERNIGHT EXPRESS DELIVERY

June 17, 2021

Mr. Jimmy Staton
President and CEO
Southern Star Central Gas Pipeline, Inc
4700 State Route 56
BOX 20010
Owensboro, KY 42301

CPF 1-2021-037-NOPV

Dear Mr. Staton:

On June 30, 2020, an incident occurred at Southern Star Central Gas Pipeline, Inc's (SSCGP) Blackwell Storage Field that resulted in the hospitalization of an employee due to an injury. The incident occurred around 12:00 PM CDT at Well 30 during workover operations to isolate the well because it had annular pressures that exceeded operator's thresholds. SSCGP was in the process of relieving the pressure in the wellbore when an employee supervising the operations was struck on the back of the head by equipment that was part of the apparatus used to relieve pressure from the wellbore (Incident). The employee was administered first aid while an ambulance was dispatched and was later admitted to the hospital for head injuries.

On July 1, 2020, 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.) investigated the Incident in Blackwell, Oklahoma.

As a result of the investigation, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items investigated and the probable violations are:

1. § 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

SSCGP failed to give notice of the Incident at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery. Pursuant to § 191.3, an Incident includes a release of gas from a pipeline that also results in a hospitalization of personnel. In addition, § 191.3 defines a confirmed discovery as when it can be reasonably determined, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation.

National Response Center (NRC) records indicated that notification of the Incident occurred at 4:45 PM CDT on June 30, 2020. During the investigation, PHMSA was informed that the event occurred around 12:23 PM CDT on June 30, 2020. Based on the severity of the injury, “confirmed discovery” of the Incident should have reasonably been determined based on the information that was available to SSCGP at 12:23 PM CDT.

Therefore, SSCGP failed to notify the NRC within 1 hour of confirmed discovery of the Incident in accordance with § 191.5(a).

2. § 199.225 Alcohol tests required.

Each operator must conduct the following types of alcohol tests for the presence of alcohol:

(a) *Post-accident.*

(1) As soon as practicable following an accident, each operator must test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

SSCGP failed to conduct required alcohol tests as soon as practicable following the Incident for employees performing tasks or those whose performance of a task cannot be completely discounted as a contributing factor to the accident¹.

During the investigation, PHMSA requested the alcohol testing records for employees and contractors associated with the Incident. PHMSA was informed by SSCGP that the alcohol testing had not begun at the time of the investigation on July 1, 2020. NRC logs indicated that the Incident occurred around 12:23 PM CDT on June 30, 2020. Records provided by SSCGP indicated that

¹ Per § 199.3, *Accident* means an incident reportable under part 191 of this chapter involving gas pipeline facilities or LNG facilities, or an accident reportable under part 195 of this chapter involving hazardous liquid pipeline facilities.

alcohol testing was completed on July 1, 2020 for the three contract workers that were on site. The two SSCGP employees did not have alcohol tests completed per records.

Therefore, SSCGP failed to administer the required alcohol testing as soon as practicable following the Incident, as required by § 199.225(a)(1).

Proposed Civil Penalty

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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$46,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$22,400
2	\$23,800

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 the 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 1-2021-037-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

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*