

**JUNE 17, 2013**

Mr. Jerry L. Morris  
President and Chief Executive Officer  
Southern Star Central Gas Pipeline, Inc.  
4700 Highway 56  
Owensboro, KY 42301

**Re: CPF No. 3-2011-1016**

Dear Mr. Morris:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$25,300, and specifies actions that need to be taken by Southern Star to comply with the pipeline safety regulations. This letter acknowledges receipt of payment of the full penalty amount, by wire transfer, dated November 22, 2011. When the terms of the Compliance Order have been completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, OPS  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS  
Mr. Robert W. Carlton, Vice President and Chief Compliance Officer, Southern Star  
Central Gas Pipeline, Inc.

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [INSERT RECEIPT NO.]**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b>	)	
	)	
<b>Southern Star Central Gas Pipeline, Inc.,</b>	)	<b>CPF No. 3-2011-1016</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On June 12-14, 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities, records, and Public Awareness Program of Southern Star Central Gas Pipeline, Inc., (Southern Star or Respondent) in Owensboro, Kentucky. Southern Star transports natural gas over approximately 6,000 miles of transmission pipeline in Missouri, Kansas, Oklahoma, Wyoming, Colorado, Nebraska and Texas.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated October 21, 2011, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Southern Star had committed several violations of 49 C.F.R. § 192.616 and proposed assessing a civil penalty of \$25,300 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible enforcement action.

Southern Star responded to the Notice by letter dated November 21, 2011 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$25,300, as provided in 49 C.F.R. § 190.227. The company also provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

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<sup>1</sup> Southern Star, About Southern Star, *available at* <http://www.sscgp.com/about-southern-star/> (last accessed May 28, 2013).

## FINDINGS OF VIOLATION

In its Response, Southern Star did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations, including baseline and supplemental requirements of American Petroleum Institute (API) Recommended Practice (RP) 1162.<sup>2</sup> Specifically, the Notice alleged that Southern Star did not complete an annual audit of its Public Awareness Program (PAP) for calendar years 2006 and 2008. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616(c) by failing to complete an annual audit of its Public Awareness Program (PAP) for calendar years 2006 and 2008 in accordance with API RP 1162.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that Southern Star failed to follow the PAP audit procedures that it established pursuant to API RP 1162 and failed to track the implementation of audit recommendations. Southern Star did not provide documentation showing that audit recommendations had been implemented. Nor did it demonstrate that the company had a process for tracking the disposition of audit recommendations. In addition, its PAP established and defined a Public Awareness Team who had responsibilities for the annual assessment, but the 2010 auditing was conducted by a single individual. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616(c) by failing to have and follow a process for tracking and documenting the implementation of audit recommendations in accordance with API RP 1162.

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<sup>2</sup> API RP 1162 is incorporated by reference into Part 192. See 49 C.F.R. § 192.7.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that Southern Star did not complete a timely baseline effectiveness evaluation. The company's documentation indicated that it completed an evaluation on October 18, 2010, four months after the maximum four-year interval set forth in API RP 1162. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616(c) by failing to complete a timely baseline effectiveness evaluation in accordance with API RP 1162.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that Southern Star did not adequately measure whether the PAP's audience understood and retained the key pipeline safety information in delivered messages. Following meetings with the affected public, the company relied solely on stakeholder audience surveys that had only a 0.24% response rate. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616(c) by failing to adequately measure whether the PAP's audience understood and retained the key pipeline safety information in delivered messages in accordance with API RP 1162.

**Item 7:** The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c), which states:

**§ 192.616 Public awareness.**

(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162. Specifically, the Notice alleged that Southern Star established six objectives for its PAP, but defined evaluation processes that failed to measure the program's bottom-line results achieving those objectives. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616(c) by failing to follow the program recommendations of API RP 1162.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$25,300 for two of the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$12,800 for Respondent's violation of 49 C.F.R. § 192.616(c) for failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162, by not completing annual audits of the company's PAP for 2006 and 2008. With respect to the nature, circumstances, and gravity of this violation, annual audits help verify that a PAP's design meets the objectives, elements, and schedules in API RP 1162, and make certain that the program's implementation is consistent with its design. Respondent is culpable for the violation because it failed to evaluate its PAP in 2006 and 2008, Respondent cannot verify the PAP design or implementation for those years. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. Southern Star neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,800 for violation of 49 C.F.R. § 192.616(c).

**Item 3:** The Notice proposed a civil penalty of \$12,500 for Respondent's violation of 49 C.F.R. § 192.616(c) for failing to follow the program recommendations, including baseline and supplemental requirements of API RP 1162, by not completing a timely baseline effectiveness evaluation. With respect to the nature, circumstances, and gravity of this violation, effectiveness evaluations are necessary to assess whether a PAP, as implemented, achieves its objectives. Respondent is culpable for the violation because by delaying its baseline evaluation, Respondent may have missed opportunities to improve how it educates the affected public about the presence and safety of its pipelines in their communities. Nothing in the record constitutes a

good faith effort to comply prior to the OPS inspection. Southern Star neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,500 for violation of 49 C.F.R. § 192.616(c).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$25,300**, which has already been paid by Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2, 3, 4, and 7 in the Notice for violations of 49 C.F.R. § 192.616(c). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

1. With respect to the violation of § 192.616(c) (**Item 2**), Respondent has amended its PAP to clarify annual audit responsibilities and include processes for tracking the implementation of recommendations from annual audits. Respondent has submitted a written plan detailing the implementation schedule for recommendations from past audits.
2. With respect to the violation of § 192.616(c) (**Item 4**), Respondent has conducted a survey of its stakeholder audiences, following the recommendations of API RP 1162, to measure the understandability of Respondent's PAP messages. Respondent has submitted documentation of the results of that survey.
3. With respect to the violation of § 192.616(c) (**Item 7**), Respondent has measured the PAP's bottom-line results in relation to the PAP's objectives and has submitted documentation of those bottom-line results.

Accordingly, I find that compliance has been achieved with respect to Items 4 and 7 and partial compliance has been achieved with respect to Item 2. Therefore, the compliance terms proposed in the Notice for Items 4 and 7 are not included in this order. The compliance terms proposed in the Notice for Items 2 and 3 are modified from the terms proposed in the Notice.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.616(c) (**Item 2**), Respondent must implement and complete all recommendations from annual audits conducted for Plan Years 2006 – 2010 no later than December 31, 2013. Respondent must submit written documentation of the implementation and completion of those recommendations to Central Region no later than March 31, 2014.

2. With respect to the violation of § 192.616(c) (**Item 3**), Respondent must submit, no later than December 31, 2013, a written document detailing how recommendations from Effectiveness Evaluations will be implemented and closed. Respondent must implement and complete all recommendations from the 2010 Effectiveness Evaluation no later than December 31, 2013. Respondent must submit written documentation of the implementation and completion of those recommendations to Central Region no later than March 31, 2014.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

### **WARNING ITEMS**

With respect to Items 5 and 6, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.616(c) (**Item 5**) — Respondent's alleged failure to document its implementation of Supplemental Activities, its process for using Supplemental Activities in its Effectiveness Evaluation, and its follow-up activities with some groups of stakeholders; and

49 C.F.R. § 192.616(c) (**Item 6**) — Respondent's alleged failure to complete timely annual audits for PAP Years 2007, 2009, and 2010.

Southern Star presented information in its Response and subsequent correspondence showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued