

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 21, 2011

Mr. Robert Carlton
Vice President & Chief Compliance Officer
Southern Star Central Gas Pipeline
4700 Highway 56
Owensboro, KY 42301

CPF 3-2011-1016

Dear Mr. Carlton:

On July 12, 13 and 14, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Public Awareness Program in Owensboro, KY.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. **§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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Southern Star Gas Central Pipeline (Southern Star) did not complete an annual audit for Plan Year 2006 and 2008 as required by API RP 1162. Southern Star assumed that submitting the 2006 Public Awareness Plan (PAP) to PHMSA Clearinghouse for review complied with an annual audit for Year 2006. Southern Star was unable to provide documentation to demonstrate that annual audits were performed for Plan Year 2006 or 2008.

2. **§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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Southern Star failed to follow their PAP procedure for program administration. Southern Star failed to use their established and defined team to ensure the development, implementation, and ongoing oversight of the public awareness program was done in accordance with their established procedures. The 2010 Annual Audit was completed by a single individual.

Also, Southern Star did not provide documentation that the annual audit recommendations were implemented or show there was a process in place to track the implementation of the audit recommendations.

3. **§ 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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Southern Star did not complete the baseline effectiveness evaluation within the time period of regulatory guidelines established in API RP 1162. Documentation provided indicates the evaluation was completed on October 18, 2010, four months beyond the

required four year interval for evaluation. Southern Star provided no documentation or justification for why the effectiveness evaluation was not completed within the prescribed interval.

4. §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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Southern Star failed to adequately measure whether stakeholder audiences understood the content of messages and retained key information from the messages. Southern Star relied primarily on returned survey cards for assessing how well the message content was understood. Southern Star field personnel passed out calendars to the affected public during face-to-face meetings but did not ask questions designed to assess their understanding of the message content. The percentage of responses from stakeholder audiences was low (0.24%).

5. §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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Southern Star PAP contains a table of Supplemental Activities but no documentation was provided for the implementation of these activities or how these activities would be used for effectiveness evaluation. Also, no documentation was provided for follow-up activities with emergency response and public officials who did not attend training/informational meetings.

6. §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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Southern Star did not complete the annual audits in a timely manner so that recommendations could be included in the following year's plan for implementation.

Southern Star has performed annual audits for PAP Years 2007, 2009 and 2010 in September 2008, November 2010 and April 2011, respectively.

7. §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 conditions with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

The Southern Star PAP listed six Objectives but the data collection efforts, data analysis and effectiveness evaluation processes do not measure bottom-line results to achieve the six Objectives listed in the PAP.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$25,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$12,800
3	\$12,500

Warning Items

With respect to items 5 and 6, 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. Be advised that failure to do so may result in Southern Star being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 2, 3, 4 and 7, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Southern Star Central gas Pipeline. 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 Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 3-2011-1016** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 2 of the Notice pertaining to failure to follow the Public Awareness Plan (PAP) procedure for program administration by failing to use your established and defined Public Awareness Team for oversight of the public awareness program, Southern Star shall complete the following:
 - Ensure that an internal group performs the annual audits of the PAP following the internal assessment method.
 - Submit a written plan to Central Region by December 31, 2011 with details of how recommendation from annual audits will be implemented and completed,
 - Implement and complete all recommendation from annual audits conducted for Plan Years 2006 – 2010 no later than August 31, 2012 and submit supporting documentation to Central Region.

2. In regard to Item Number 3 of the Notice pertaining to failure to complete the baseline effectiveness evaluation by the required deadline of June 20, 2010, Southern Star shall complete the following:
 - Submit a written document to Central Region by December 31, 2011 with details of how recommendations from Effectiveness Evaluations will be implemented and closed.
 - Implement and complete all recommendations from the 2010 Effectiveness Evaluation no later than August 31, 2012 and submit supporting documentation to Central Region.

3. In regard to Item Number 4 of the Notice pertaining to failure to adequately measure whether stakeholder audiences understand the content of messages and retained key information in the messages. Southern Star shall complete the following:
 - Follow the recommendations of API 1162, specifically addressing “survey target stakeholder audiences” and develop a survey plan and forms for surveying target audiences no later than December 31, 2011.
 - Implement the survey for measuring understandability no later than February 29, 2012.

4. In regard to Item Number 7 of the Notice pertaining to lack of measuring bottom-line results to achieve the Plan Objectives, Southern Star shall complete the following:
 - After the amendment of the PAP procedure for Effective Evaluations, as required in Item 4 of CPF 3-2011-1017M, has been completed, measure the bottom-line results to determine if the six Objectives of the PAP have been achieved.
 - Submit documentation of the bottom-line results in relation to the Objectives no later than September 30, 2012.

5. Unless specifically noted, documentation of completion shall be sent to the Regional Director, Central Region within 30 days of the completion date.
6. It is requested (not mandated) that Southern Star maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central 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.