



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. J. PATRICK BARLEY

June 15 2022

Mr. J. Patrick Barley
Chief Executive Officer
Scm Pr, LLC
909 Lake Carolyn Parkway, Suite 650
Irving, TX 75039

CPF 5-2022-021-NOPV

Dear Mr. Barley:

From March 1 through 5, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the procedures and records for the Scm Pr, LLC (SCM) control room located in Irving, Texas.

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)...

(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)...

(4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan

SCM failed to comply with the requirements of § 195.446(e)(4) that its written alarm management plan include provisions to review the alarm management plan to determine its effectiveness at least once each calendar year, but at intervals not exceeding 15 months. During the inspection, SCM was unable to produce records documenting that it conducted an annual alarm management plan review in 2019.¹

2. § 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

(6) Address deficiencies identified through the implementation of paragraphs (e)(1) through (e)(5) of this section.

SCM failed to comply with the requirements of § 195.446(e)(5) & (6). Specifically, SCM failed to implement a written alarm management plan that included provisions to monitor the content and volume of the general activity of the controller in order to assure controllers have sufficient time to analyze and react to incoming alarms. During the inspection, PHMSA reviewed CRM 2-13 *Pipeline Controller Activity Annual Review Procedure*, which did not require SCM to monitor the content and volume of the general activity of the controllers. It also did not provide any documentation evidencing this practice.² By failing to implement the requirements set forth in § 195.446(e)(5), SCM cannot identify and address any deficiencies pursuant to the requirements set forth in § 195.446(e)(6).

¹ See § 195.446(j)(1) (requiring operators to maintain for review during inspection records that demonstrate compliance with the requirements set forth in § 195.446).

² *Id.*

3. § 195.446 - Control room management.

(a)...

(f) ***Change management.*** Each operator must assure that changes that could affect control room operations are coordinated with the control room personnel by performing each of the following:

(1) Implement section 7 of API RP 1168 (incorporated by reference, see § 195.3) for control room management change and require coordination between control room representatives, operator's management, and associated field personnel when planning and implementing physical changes to pipeline equipment or configuration...

SCM failed to ensure that changes that could affect control room operations were coordinated with control room personnel by failing to implement Section 7 of API RP 1168 to require coordination between control room representatives, operator's management, and associated field personnel when planning and implementing physical changes to pipeline equipment or configuration. During the inspection, SCM was unable to provide documentation that the control room and the field personnel coordinated activities during the addition of the Tillard 19 28-71 LACT unit.³

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to SCM Pr, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

³ *Id.*

Warning Items

With respect to Items 1 and 3, 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 5-2022-021-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 J. Dunphy (#21-201441)
Mary Patton, Regulatory Manager Silver Creek Midstream, mpatton@scmidstream.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 2 of the Notice pertaining to SCM's failure to analyze controller activity to determine if controllers have sufficient time to analyze and react to incoming alarms, SCM must amend its written procedures to provide detailed instructions on how it will monitor and document the content and volume of general activity being directed to and required of each controller and submit to PHMSA for review and approval within **30 days** of receipt of the Final Order. Additionally, using its approved, revised procedures, SCM must conduct and submit an analysis of the controller activity to assure controllers have sufficient time to analyze and react to incoming alarms within **180 days** of receipt of the Final Order. The analysis must document any deficiencies identified and address any corrective actions SCM has implemented to mitigate the deficiencies.
- B. It is requested (not mandated) that SCM 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.