



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

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: paul.bieniawski@enstorinc.com & todd.cash@enstorinc.com

October 7, 2021

Paul Bieniawski
Chief Executive Officer
Enstor Mississippi Hub
10375 Richmond Avenue, Suite 1900
Houston, TX 77042

CPF 3-2021-056-NOPV

Dear Mr. Bienaiwski:

From November 2 – 6, 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.) inspected your Control Room Management procedures and records in Katy, Texas.

This Notice is in response to PHMSA's Control Room Management (CRM) Initiative, which is a national level program that includes inspectors from every region. As a result, you may have received this Notice from a different Regional Director than typical because the CRM Initiative inspections are currently separate from the standard inspection program. Notices and correspondence from other types of inspections will remain unchanged.

As a result of the inspection, it is alleged that you have committed probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

- 1. § 192.631 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)

(2) Identify at least one each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;

Enstor-Mississippi Hub (Enstor) failed to identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities for the years 2017, 2018, and 2019.

Remote Operation Control (ROC) began providing control room services to Enstor on August 6, 2019. Prior to that period, Enstor was operated from the Sempra U.S. Gas and Power (Sempra) control room, in Houston, Texas. Enstor did not use the ROC SCADA system after ROC began providing control room services on August 6, 2019. Rather, Enstor logged in to its own SCADA server. Therefore, the information, to conduct the required elements for the monthly review, had to be provided to ROC each month. ROC's control room service included a review of points affecting safety as set forth in § 192.631(e)(2). PHMSA's review of ROC's records of monthly reviews for August – December 2019 identified that Enstor only provided ROC alarms that were generated during those months. Enstor did not provide any event logs or information that related to off-scan, inhibited, manual or forced alarms.

Enstor used the alarm historian database known as TiPS. TiPS provided, to Enstor, monthly reports of its alarm data. Monthly alarms were pulled from the TiPS database, by Enstor, and documented. Representative records for March 2017, March 2018 and March 2019 were provided from Sempra, who managed Enstor's CRM Plan, Alarm Management Plan and operated Enstor. The records provided included monthly reports for Chattering, Consequential, Duplicate, Flood, Repeating, Stale, Standing, Time to Acknowledge and Time to Clear alarms, but did not include data related to points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities.

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 violation and recommend that you be preliminarily assessed a civil penalty of \$23,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$23,100

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 **CPF3-2021-056-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Todd Cash, Director Compliance todd.cash@enstorinc.com

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