

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

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergylp.com;
jennifer.eckels@tallgrassenergylp.com; brad.armsbury@tallgrassenergylp.com;
crystal.heter@tallgrassenergylp.com

January 19, 2022

William Moler
Chief Executive Officer
Tallgrass Energy, LP
Pony Express Pipeline, LLC
Tallgrass Midstream, LLC
4200 W. 115th St. Suite 350
Leawood, KS 66211

CPF 3-2022-018 NOPV

Dear Mr. Moler:

From May 7 through 11, 2018 and December 4 through 6, 2018, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Tallgrass Energy, LP (Tallgrass) records for the hazardous liquid Control Room Management procedures and records in Lakewood, Colorado. The inspection team continued to work on completing the inspection by receiving requested items from Tallgrass through 2019.

In addition, while working to complete the inspection in 2020 PHMSA became aware of a compliant and this extended the inspection as an issue that surfaced in that compliant had a

common area of focus with the prior inspection. For this reason, work continued this inspection and complaint resolution between 2019 through October of 2021.

While the control room management procedures cover additional assets (such as gas transmission), this inspection covered Pony Express Pipeline, LLC (OPID 39043), and Tallgrass Midstream, LLC (OPID 39216). As such, if a particular violation is relevant only to a given pipeline system, this will be identified below, otherwise the violation is applicable to both pipeline systems.

As a result of the inspection, it is alleged that Tallgrass has 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) General. This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate, with the operator's written procedures required by § 195.402. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

Tallgrass failed to follow its written control room management procedures when implementing the test of any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months, required by § 195.446(c)(4). Specifically, the 2018-2020 backup site checklist records did not substantiate what was required by the procedures as noted in Section 8.2 of Tallgrass's O&M 1100_GL. This section of the Control Room management procedures stated:

8.2. Backup Control Room and SCADA System Testing Annually, not to exceed 15 months, the OCC will activate and test the on-site backup control room located in building 360 in Lakewood, Colorado and the off-site backup control room and/or SCADA system in Fort Collins, Colorado. Testing may occur during an actual service failure or during a team training exercise. At a minimum, backup SCADA system testing will include command and set point entry processes. Documentation of these tests will be retained on the OCC SharePoint site for a minimum of three years and corrective actions will be implemented as needed."

Records provided for the 2018-2020 backup site tests did not demonstrate command and setpoint entry processes had been tested as required by procedure.

2. § 195.446 Control room management.

(a) General. This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate, with the operator's written procedures required by § 195.402. An operator must develop the procedures no later than August 1, 2011 and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

Tallgrass failed to follow its written control room management procedures when implementing methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities by not training controllers to recognize the effects of fatigue, as required by § 195.446(d)(3). Tallgrass's O&M 1100_GL Titled: Control Room Management (CRM) Section 13.3 Table 1, Fatigue Management Training, required that fatigue training must occur annually, but not to exceed 15 months. The Controller 1 failed to have a record demonstrating that fatigue mitigation training was completed between 2014-2018. The Controller 2 failed to have a record demonstrating that fatigue mitigation training was completed in 2017. Therefore, Tallgrass failed to implement the training at the requisite interval in accordance with its CRM Procedure.

3. § 195.446 Control room management.

(a)

(c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes, and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1)

(2) Conduct a point-to-point verification between SCADA displays and related field equipment when field equipment is added or moved and when other changes that affect pipeline safety are made to field equipment or SCADA displays;

Tallgrass failed to conduct a point-to-point verification between SCADA displays and related field equipment when field equipment was added or moved, and when other changes that affect pipeline safety were made to field equipment or SCADA displays on its Pony Express pipeline system. A construction notification was submitted to PHMSA by Tallgrass on August 28, 2017,

describing the addition of two 150,000 bbl storage tanks, two 250 HP booster pumps, ultrasonic metering, additional piping, valves, and fittings to expand the capacity at the existing Buckingham Terminal. According to the construction notification, the anticipated operational startup date for the newly constructed facilities was April 1, 2018. The initial point-to-point verifications were documented on April 2, 2018 for the newly added facilities at Buckingham Terminal. These initial point-to-point records failed to document verification between SCADA displays and related field equipment. The point-to-point information provided did not define what specific SCADA displays, relevant to the Buckingham Terminal added facilities, had been verified through the point-to-point process.

4. § 195.446 Control room management.

(a)

(g) *Operating experience.* Each operator must assure that lessons learned from its operating experience are incorporated, as appropriate, into its control room management procedures by performing each of the following:

(1) Review accidents that must be reported pursuant to § 195.50 and 195.52 to determine if control room actions contributed to the event and, if so, correct, where necessary, deficiencies related to:

(i) Controller fatigue;

(ii) Field equipment;

(iii) The operation of any relief device;

(iv) Procedures;

(v) SCADA system configuration; and

(vi) SCADA system performance..

Tallgrass failed to demonstrate that accidents required to be reported pursuant to §§ 195.50 and 195.52 were reviewed to assure that lessons learned from its operating experience are incorporated, as appropriate, into its control room management procedures. PHMSA reviewed the records associated with the operator's review of a reportable event (PHMSA Accident Report # 20170050 – 30195) associated with a release that occurred at Sterling Terminal on Tank 5252 in January of 2017. The internal review, as documented in the Tallgrass records system, OM100-45 Event/Incident Investigation Summary for the Tank 5252 oil release on January 20, 2017, failed to include a review to determine if the control room actions contributed to the event, as required. This release was reported by the operator to have continued for approximately 16 hours. While a notation was provided that a leak detection alarm needed to be pursued for the control room, nothing provided by the operator indicated that other data presented to the controller had been reviewed for appropriate controller response. Tallgrass did indicate in internal documents that measurement data was reviewed, and this is what helped the operator determine that the release continued for 16 hours. However, nothing clarified if this same data was also available to the controller, and if not, what was available when the release started and during the release period.

5. § 195.446 Control room management.

(a)

(j) *Compliance and deviations.* An operator must maintain for review during inspection:

(1)

(2) Documentation to demonstrate that any deviation from the procedures required by this section was necessary for the safe operation of the pipeline facility.

Tallgrass failed to maintain documentation to demonstrate that any deviation from its control room procedures (CRM) was necessary for the safe operation of the pipeline facility, as required. Tallgrass referenced the Krohne's CPM leak detection system in its O&M 1100_GL CRM plan (Table 1 – Liquids System Training Activities), and in its AO-F Leak Detection and Response Guideline, as the CPM leak detection system utilized by the operator. Tallgrass deviated from its CRM procedures by not utilizing the Krohne CPM system as a means to detect a leak, as referenced and required in its procedures. Tallgrass did not amend its procedures or identify this departure from the procedures as a deviation. During the inspection, Tallgrass personnel stated that the leak detection system was not utilized due to the number of false alarms incurred by the system. Because the Krohne's system was referenced in procedures as part of the Control Room Management plan, a documented record of this deviation away from the Krohne system was required.

During a 2016 inspection on Pony Express, PHMSA asked initial information about the leak detection system used. At that time, Tallgrass had determined that the Krohne's system was problematic and was not performing consistently. Upon returning to Tallgrass for the Control Room inspection in 2018, PHMSA was again informed that the Krohne's leak detection system was not functioning properly and generated false alarms. Between 2016 and 2018, Tallgrass failed to update, maintain, or clarify procedures regarding how to detect a leak, and failed to provide documentation to demonstrate that this deviation from the procedures was necessary for the safe operation of the pipeline facility.

Tallgrass indicated that false alarms were far too frequent for the Krohne's system to be deployable and not affect the success of the controller. Tallgrass reported that the system, as programmed, did not adequately allow for hydraulic gradient considerations and the system programming was not provided to the operator, so changes were not yet possible. Tallgrass deviated from utilizing the computational pipeline monitoring system defined in their AO-F Leak Detection and Response Guideline, but failed to document this deviation or why it was necessary for the safe operation of the pipeline facility.

Beginning in 2019 and continuing into 2021, Tallgrass has continued to work on the development of a CPM system that can be implemented reliably but not adjusted procedures accordingly or written a deviation to reflect this condition.

Additionally, the NGL Redtail (TMID) pipeline system liquid assets did not utilize the Krohne system for leak detection. When asked about emergency training for the NGL system, Tallgrass stated that table tops exercises were utilized. When reviewing the tabletop information for the NGL Redtail system, there was no record of which controllers participated in the tabletop exercise. Tallgrass's O&M 1100_GL CRM plan, Table 1 – Liquids System Training Activities, required controllers to participate in tabletop exercises. Training on the TMID method to detect a leak did not occur per procedures, and Tallgrass could not provide a written deviation as to why this was required for pipeline safety.

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 \$55,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$22,400
4	\$32,800

Warning Items

With respect to items 1 and 2 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.

Proposed Compliance Order

With respect to items 3, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tallgrass Energy, LP (Tallgrass). 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 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 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 3-2022-018 NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

cc: Jennifer Eckles, Director Compliance, jennifer.eckels@tallgrassenergylp.com
Crystal Heter, Chief Operating Officer, crystal.heter@tallgrassenergylp.com
Brad Armsbury, Compliance Engineer, brad.armsbury@tallgrassenergylp.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 3 of the Notice pertaining to Buckingham Terminal points on the Pony Express pipeline and point-to-point records, Tallgrass must complete a point-to-point for each point from the field end device through to the SCADA system displays within 60 days of receipt of this Final Order, starting with submitting a complete list of all points (tags, point names, descriptors) with an identification of whether or not it is a point that can impact safety. Then after this designation is provided, a list of those that have safety related alarms and what parameters (attributes) are safety related. The completed point-to-point records for each point that can impact safety, or for safety related alarms, must include at a minimum, and not all inclusive, the following: recording the ranges of equipment (if analog) employed, the confirmation of the event and alarming functions (as maybe relevant), confirmation and testing of any automated logic such as automated pump shutdown upon high discharge or low suction, the relevant alarm setpoint values and alarm descriptors, confirmation of the correct alarm response by color including action (such as blinking) and priority for all relevant displays and alarm summary screens, and record a list of all SCADA displays that have been reviewed to confirm correct display response and correct location of the point (screen shots with listing). The record must include who performs the verification in the field at the end device, identify the end device, and who performs the control room verification on each day along with the relevant date, and must describe the method used for the confirmation (such as pressure switch tripped and valve closed, or pressure transmitter calibrated, simulation of loss of communication at the PLC, etc.). These records must be submitted to the Director, Central region within 30 days of completing the point-to-point confirmation and verification of SCADA displays.
- B. In regard to Item 4 of the Notice pertaining to Sterling Tank, Tallgrass must provide to the Director, Central Region, within 30 days of the receipt of this Final Order a summary of what leak alarms have been added for this location for controller use. In addition, within 60 days of Receipt of this Final Order, provide to the Director, Central Region, a list of all other similar locations and identify either the leak alarms added with the associated dates of implementation, or a proposed plan in place to add similar alarms. If leak alarms have not been added for similar installations at other locations and a plan has not been developed for these to be added, then a plan must be provided to the Director, Central Region regarding planned dates of implementation, or justification for why this was not necessary at various locations for pipeline safety must be provided.
- C. In regard to Item 5 of the Notice pertaining to a deviation of leak detection procedures, Tallgrass must write a deviation for the years under which the Krohnes leak detection system has not been used within 30 days of receipt of this Final Order, and update all procedures to remove references to this system. In addition, Tallgrass must within 1 year of receipt of this Final Order have a fully functioning CPM leak detection system and have updated all relevant procedures,

performed training, and implemented this selected system on all segments of the Hazardous liquid pipeline systems operating in crude or refined products services. For any HVL systems, all procedure must be updated accurately to reflect how a leak will be detected, and training performed within 60 days of the receipt of this Final Order. Records of each element required in this compliance order (written deviations, procedure updates, training) including testing associated with the new leak detection system (FAT and SAT tests) will be submitted to the Director, Central Region Office within 30 days of completion of that element.