

November 9, 2023

VIA ELECTRONIC MAIL TO: stan.horton@bwpipelines.com

Stanley Horton
President and Chief Executive Officer
Boardwalk Pipelines, LP
9 Greenway Plaza Suite 2800
Houston, Texas 77046

Re: CPF No. 3-2023-014-NOPV

Dear Mr. Horton:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes findings of violation, assesses a civil penalty of \$16,700, and specifies actions that need to be taken by Boardwalk Petrochemical Pipeline, LLC, a subsidiary of Boardwalk Pipelines, LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Tina Baker, Manager, Compliance Service, Boardwalk Petrochemical Pipeline, LLC,
tina.baker@bwpipelines.com
Mr. Tony Rizk, Vice President, Technical Services, Boardwalk Petrochemical Pipeline, LLC,
tony.rizk@bwpipelines.com

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of	)	
	)	
Boardwalk Petrochemical Pipeline, LLC,	)	CPF No. 3-2023-014-NOPV
a subsidiary of Boardwalk Pipelines, LP,	)	
	)	
Respondent.	)	
	)	

FINAL ORDER

From September 19 to September 23, 2022, 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 and records of Boardwalk Petrochemical Pipeline, LLC (Boardwalk or Respondent) in Sulphur Springs, Louisiana. Boardwalk operates a control center which supports around 380 miles of hazardous liquid pipelines and eight miles of gas transmission pipelines.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated July 27, 2023, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Boardwalk had committed seven violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$16,700 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Boardwalk responded to the Notice by letter dated August 24, 2023 (Response). Boardwalk contested one of the allegations and offered additional information. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.444(b), which states:

§ 195.444 Leak detection.

(a)

(b) *General.* A pipeline must have an effective system for detecting leaks in accordance with §§ 195.134 or 195.452, as appropriate. An operator must evaluate the capability of its leak detection system to protect the public, property, and the environment and modify it as necessary to do so. At a minimum, an operator's evaluation must consider the following factors—length and size of the pipeline, type of product carried, the swiftness of leak detection, location of nearest response personnel, and leak history.

The Notice alleged that Respondent violated 49 C.F.R. § 195.444(b) by failing to evaluate the capability of its leak detection system to protect the public, property, and the environment and modify it as necessary to do so. Specifically, the Notice alleged that Boardwalk failed to consider length and size of the pipeline, type of product carried, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results in its procedure. In addition, the Notice alleged Boardwalk did not have procedures requiring evaluation and benchmarking if assets are added or removed and did not establish a frequency for the leak detection capability evaluation.

In its Response, Boardwalk did not contest this allegation of violation. Having reviewed the record, however, I note that under 195.134, a pipeline constructed prior to October 1, 2019, does not have to comply with 195.444 until October 1, 2024. Respondent's exhibits¹ indicate that its pipeline was constructed prior to October 1, 2019. Therefore, the pipeline was not required to be in compliance with 195.444 at the time of the inspection. Based upon the foregoing, I hereby order that Item 1 be withdrawn.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(1), which states:

§ 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) Implement API RP 1165 (incorporated by reference, *see* § 195.3) whenever a SCADA system is added, expanded or replaced, unless the operator demonstrates that certain provisions of API RP 1165 are not practical for the SCADA system used;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(1) by failing to provide a record that demonstrated it had implemented API RP 1165 whenever a supervisory control and data acquisition (SCADA) system was added, expanded, or replaced. Specifically, the Notice alleged that Boardwalk failed to provide records demonstrating it had reviewed its screens and system functions in accordance with API RP 1165.

¹ See Respondent Exhibit 1A (1/19/2018), Exhibit 4B (5/11/2019).

In its Response, Boardwalk did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(1) by failing to provide a record that demonstrated it had implemented API RP 1165 whenever a SCADA system was added, expanded, or replaced.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(2), which states:

§ 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;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(2) by failing to 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 of SCADA displays. Specifically, the Notice alleged that Boardwalk failed to conduct a point-to-point verification when it implemented a new SCADA system at the Sulphur Springs Control Room. Second, the Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(2) by failing to include a requirement in its procedures to verify the accuracy of values, alarm graphics, and messaging on all SCADA screens when conducting a point-to-point verification.

In its Response, Boardwalk contested this allegation of violation, in part, and submitted documentation showing that a point-to-point had been completed. Boardwalk did not contest the second allegation that it failed to include a requirement in its procedures to verify the accuracy of all SCADA screens when conducting a point-to-point.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended withdrawing the violation of § 195.446(c)(2), in part, after consideration of the additional documentation submitted related to the alleged failure to conduct a point-to-point verification. Based upon the foregoing, I hereby order that Item 3 be withdrawn, in part, because Boardwalk submitted documentation showing that a point-to-point had been completed.

Having considered the evidence associated with the second allegation, which Respondent did not contest, I find that Respondent violated 49 C.F.R. § 195.446(c)(2) by failing to include a requirement in its procedures to verify the accuracy of values, alarm graphics, and messaging on all SCADA screens when conducting a point-to-point verification.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(3), which states:

§ 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)

(3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safety, at least once each calendar year, but at intervals not to exceed 15 months. Specifically, the Notice alleged that Boardwalk failed to complete a test of the internal communication system for safe manual operation of the pipeline in calendar year 2020 and could not provide records documenting a test claimed to be performed on May 11, 2019.

In its Response, Boardwalk did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(c)(3) by failing to test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safety, at least once each calendar year, but at intervals not to exceed 15 months.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e), which states:

§ 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:

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(e) by failing to have a written alarm management plan to provide for effective controller response to alarms. Specifically, the Notice alleged that Boardwalk's plan did not have consistency in alarm management because it, in part, relied on field personnel to determine what was monitored and the appropriate response level.

In its Response, Boardwalk did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(e) by failing to have a written alarm management plan to provide for effective controller response to alarms.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(1), which states:

§ 195.446 Control room management.

(a)

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(1) by failing to include responding to abnormal operating conditions likely to occur simultaneously or in sequence in its controller training program. Specifically, the Notice alleged that Boardwalk failed to provide a list or examples of abnormal operating conditions that could occur simultaneously or in sequence that was used for training.

In its Response, Boardwalk did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(h)(1) by failing to include responding to abnormal operating conditions likely to occur simultaneously or in sequence in its controller training program.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(3), which states:

§ 195.446 Control room management.

(a)

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator's program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

(1)

(3) Training controllers on their responsibilities for communication under the operator's emergency response procedures;

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(h)(3) by failing to train controllers on their responsibilities for communication under the operator's emergency response procedures. Specifically, the Notice alleged that Boardwalk failed to establish training for how the leak detection system works and supports alarming to SCADA. The Notice further alleged that Boardwalk did not provide directions or steps for a controller to take if a possible leak is identified in Appendix 8 of the CRM Training Program. The Notice also stated Boardwalk failed to provide controller training records related to leak detection.

In its Response, Boardwalk did not contest this allegation of violation. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.446(h)(3) by failing to train controllers on their responsibilities for communication under the operator's emergency response procedures.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.²

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; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$16,700 for the violations cited above.

Item 4: The Notice proposed a civil penalty of \$16,700 for Respondent's violation of 49 C.F.R. § 195.446(c)(3) for failing to test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safety, at least once each calendar year, but at intervals not to exceed 15 months. Boardwalk neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$16,700** for violation of 49 C.F.R. § 195.446(c)(3).

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

² These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

The Notice proposed a compliance order with respect to Items 1, 2, 3, 5, 6, and 7 in the Notice for violations of 49 C.F.R. §§ 195.444(b), 195.446(c)(1), 195.446(c)(2), 195.446(e), 195.446(h)(1), and 195.446(h)(3), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. As discussed above, Item 1 has been withdrawn. Therefore, the compliance terms proposed in the Notice for that Item are not included in this Order. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

With regard to the violation of § 195.446(c)(1) (Item 2), Respondent stated that it will conduct a full audit of its SCADA screens and Style Guide against API RP 1165 and submit to PHMSA within 90 days of receipt of the Final Order. Accordingly, the terms of the proposed compliance order for Item 2 are included.

With respect to the violation of § 195.446(c)(2) (Item 3), as discussed above, Item 3 has been withdrawn, in part. Therefore, the compliance terms proposed in the Notice for that Item are revised to remove the terms associated with completing point-to-point of the AVEVA Sulphur Springs SCADA system. The terms of the proposed compliance order for Item 3 associated with modifying procedures are included.

With respect to the violation of § 195.446(e) (Item 5), Respondent stated it revised its procedures in MOC 2022-11-01 to document its established process for alarm rationalization. Having reviewed the revised procedures, further corrective action is required. The procedure did not detail the process of how Boardwalk is going to rationalize alarms. Accordingly, the terms of the proposed compliance order for Item 5 are included.

With regard to the violation of § 195.446(h)(1) (Item 6), Respondent stated that it implemented its Liquids Control Trainer in late 2022. The syllabus for each scenario included a list of abnormal operating conditions likely to occur simultaneously or in sequence. Records were attached to the Response. Boardwalk further stated training with the Liquids Control Trainer will be completed once each calendar year, not to exceed 15 months, by each Controller and Control Room Management. Boardwalk also requested clarification of the proposed compliance order, as the last sentence for Item 6, requiring utilization of the amended process to rationalize all alarms, repeated the requirement of Item 5, which also required alarm rationalization. I find Respondent provided adequate records of abnormal operations that could occur simultaneously or in sequence to support the training requirement. In addition, I agree the last sentence for Item 6 was a typographical error. Accordingly, after considering all of the evidence, I find that Respondent satisfied all compliance order requirements for Item 6. Therefore, it is not necessary to include the terms below.

With respect to the violation of § 195.446(h)(3) (Item 7), Respondent stated that the training requirement is satisfied using Scenario #4 of the Liquids Control Trainer. Having reviewed the revised procedures, further corrective action is required. Respondent must develop a training plan that includes all the topics covered in training controllers on leak detection, including how

the leak detection system works along with other SCADA indications related to identifying leaks, and controllers' response to these presentations. The documentation provided by Respondent did not include this information. Accordingly, the terms of the proposed compliance order for Item 7 are included below.

For the above reasons, the Compliance Order is modified as set forth below.

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 § 195.446(c)(1) (**Item 2**), Respondent must conduct an audit of its SCADA screens and style guide against API RP 1165 to identify compliance and deficiencies and correct those deficiencies, or demonstrate that certain provisions of API RP 1165 are not practical for the SCADA system used, within 90 days of receipt of the Final Order.
2. With respect to the violation of § 195.446(c)(2) (**Item 3**), Respondent must modify the point-to-point procedure to include verification of all screens, verify all point values and status match, and verify the appropriate alarm conditions present such as "on/off," "open/closed," "local/remote," in alarm with the correct priority, etc., within 120 days of receipt of the Final Order.
3. With respect to the violation of § 195.446(e) (**Item 5**), Respondent must develop an alarm rationalization process that supports a consistent method for determination of alarm priorities and set points to provide effective controller response to alarms, and utilize that process to rationalize all alarms within 120 days of receipt of the Final Order.
4. With respect to the violation of § 195.446(h)(3) (**Item 7**), Respondent must develop training content to describe how the AVEVA system works to calculate the benchmark, how the value is alarmed to SCADA, and how the controller must respond should the alarm present, and train controllers on this content within 60 days of receipt of the Final Order.

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.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties

not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), 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.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

November 9, 2023

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued