

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

VIA ELECTRONIC MAIL TO: mhepburn@parpacific.com

October 25, 2023

Mr. Mark Hepburn
Vice President
Par Hawaii Logistics
91-325 Komohana Street
Kapolei, HI 96707

CPF 5-2023-043-NOPV

Dear Mr. Hepburn:

From August 22 through 26, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected the PAR Hawaii Refining, LLC (PAR) control room procedures and records for the Kapolei control room in Kapolei, Hawaii.

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) *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...

PAR failed to follow its written control room management procedures (CRMP) implementing the requirements of § 195.446(e)(5) as required. Specifically, PAR failed to follow CRMP Section 5.4 Workload Analysis for monitoring controller activity¹. The procedure required PAR to observe the actions of each controller at least once each calendar year. However, PAR could not provide any records to demonstrate that PAR 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.²

Therefore, PAR failed to follow its written procedures as required pursuant to § 195.446(a).

2. §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;

PAR failed 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. Specifically, during inspection, it was noted that PAR installed a new MOV kicker valve as shown in its MOC# M2018249-001. However, PAR could not provide any records to demonstrate that a point-to-point verification had been conducted between the field and the control room after the MOV kicker valve was installed.³

Therefore, PAR failed to conduct a point-to-point verification as required per § 195.446(c)(2).

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) . . .

¹ See Control Room Management Plan, pg. 33.

² See Post Inspection Program Updates, pg. 8.

³ See Post Inspection Program Updates, pg. 5.

(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;

PAR failed to 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. During the inspection, PAR could not produce any records to demonstrate it had tested and verified its communication plan on an annual basis.⁴

Therefore, PAR failed to test and verify its internal communication plan at least once a calendar year, but at intervals not to exceed 15 months as required pursuant to § 195.446(c)(3).

4. §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) . . .

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months;

PAR failed to test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months. During PHMSA inspection, PAR could not provide any records to demonstrate its backup SCADA systems had been tested in the calendar years of 2019, 2020 and 2021.⁵

Therefore, PAR failed to test its backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months as required.

5. §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) ...

⁴ See Post Inspection Program Updates, pg. 6.

⁵ See Post Inspection Program Updates, pg. 7.

(6) Control room team training and exercises that include both controllers and other individuals, defined by the operator, who would reasonably be expected to operationally collaborate with controllers (control room personnel) during normal, abnormal or emergency situations. Operators must comply with the team training requirements under this paragraph no later than January 23, 2018.

PAR failed to provide for training each controller to carry out the roles and responsibilities defined by the operator as required. Specifically, during the PHMSA inspection, PAR could not provide any records demonstrating it had conducted team training and exercises once each calendar year, at intervals not to exceed 15 months, that included both controllers and other individuals who would reasonably expect to operationally collaborate with controllers during normal, abnormal or emergency situations.⁶

Therefore, PAR failed to conduct control room team training and exercises once each calendar year, at intervals not to exceed 15 months, as required by § 195.446(h)(6).

6. §195.446 Control room management.

(a)

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

(1) Records that demonstrate compliance with the requirements of this section; ...

PAR failed to provide records to demonstrate that it was in compliance with § 195.446(c)(1). Specifically, § 195.446(c)(1) requires an operator to implement API RP 1165 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. At the time of PHMSA inspection, PAR mentioned that they integrated the Atmos Leak Detection system into its SCADA system in 2013. However, PAR could not provide any records and or analysis that API RP 1165 has been followed during the integration or any justification that API RP 1165 is not practical for the SCADA system used.⁷

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 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

⁶ See Post Inspection Program Updates, pg. 10.

⁷ See Post Inspection Program Updates, pg. 3.

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.

Proposed Compliance Order

With respect to items 3, 5, and 6 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to PAR Hawaii Refining, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to items 1, 2, and 4, 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. 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 your receipt of this Notice, you have **30** days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 5-2023-043-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 (#22-239216)
Michelle Loveless, Compliance Coordinator, Logistics, MLoveless@parpacific.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item 3 of the Notice pertaining to PAR's failure to 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, PAR must conduct a test of its internal communications plan and submit the results of this test to PHMSA within **60** days of receipt of the Final Order.
- B. In regard to Item 5 of the Notice pertaining to PAR's failure to provide for training each controller to carry out the roles and responsibilities defined by the operator as required, PAR must train their controllers with their new procedure to require conducting a team training and exercises once each calendar year, at intervals not to exceed 15 months, that included both controllers and other individuals who would reasonably expect to operationally collaborate with controllers during normal, abnormal or emergency situations and train their controllers with this new procedure. PAR must submit records of training to PHMSA within 60 days of receipt of the Final Order.
- C. In regard to Item 6 of the Notice pertaining to PAR's failure to document that the new Atmos SCADA screens were in compliance with API RP 1165, PAR must conduct analysis of its Atmos leak detection SCADA screens for compliance with API RP 1165 and submit this analysis to PHMSA within **30** days of receipt of the Final Order.
- D. It is requested (not mandated) that PAR Hawaii Refining, LLC 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.