



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

901 Locust Street, Suite 462  
Kansas City, MO 64106-2641

## NOTICE OF AMENDMENT

### CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 9, 2011

Mr. Peter Schwiering  
President  
SemGroup LP  
11501 South I-44 Service Rd.  
Oklahoma, City, OK 73173

**CPF 3-2011-5007M**

Dear Mr. Schwiering:

On March 1-3, 2011, representatives of the Western, Southwestern and Central offices of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the operation and maintenance procedures for SemGroup L.P. at your offices in Oklahoma City, OK. It was indicated by your personnel that these procedures also apply to the facilities operated by SemStream and White Cliffs Pipeline LLC.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within SemGroup L.P.'s (SemGroup) plans or procedures, as described below:

**1. §195.402 Procedural Manual for Operations, Maintenance and Emergencies.**

**§195.402(a) - Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

**§195.56(a) - Each report of a safety-related condition under §195.55(a) must be filed (received by the Administrator) in writing within 5 working days (not including Saturdays, Sundays, or Federal holidays) after the day a representative of the**

**operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by facsimile (fax), dial (202) 366-7128.**

The procedure was inadequate because it did not sufficiently define discovery and determination. There was no explanation that definitively explained the difference between the two. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**2. §195.402 Procedural Manual for Operations, Maintenance and Emergencies.**

**§195.402(a) requires that each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.**

**§195.402(c) indicates that the manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

- (6) Minimizing the potential for hazards identified under paragraph (c)(4) of this section and the possibility of recurrence of accidents analyzed under paragraph (c)(5) of this section.**

The procedure was inadequate because the requirement re-stated the code. Company personnel indicated that their emergency response plan, OPA plan, prevention of ignition and liaison procedures met this requirement. However, no references in the manual were made to any of these other plans and procedures. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**3. 195.402 (see above)**

**(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

- (13) Periodically reviewing the work done by operator to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.**

The procedure for this requirement was inadequate because it just restated the code. SemGroup must provide for more clarification to indicate what they do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures to address this. However, the procedures still do not meet the requirement of the code. The revised

procedure indicates that the supervisors will do an annual review with the employee to discuss if the procedures in place are adequate for the employees to perform their jobs. They also indicate that this is documented on a Liquid Pipeline Maintenance Personnel Performance Checklist. This form and revised procedure does not include observation or review of the employee's work during execution of the normal operating and maintenance procedures for the purpose of evaluating the effectiveness of the procedure. While annual discussions with the employee regarding procedures is a good practice, the discussion by itself does not meet the requirement requiring a review of the personnel's work.

**4. §195.402 (See above)**

**(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

**(14) Taking adequate precautions in excavated trenches to protect personnel from the hazards of unsafe accumulations of vapor or gas, and making available when needed at the excavation, emergency rescue equipment, including a breathing apparatus and, a rescue harness and line.**

The procedure was inadequate because more clarification was needed within the procedure. For example, the procedure indicates that in an excavation, SemGroup personnel will take a gas detection reading daily before entering the excavation. Consideration should be given to taking continuous readings to ensure the excavation is safe. On April 11, 2011, your personnel submitted amended procedures addressing this. However, the procedure did not address the concern about the continuous monitoring of the excavation around a live line. Continuous monitoring of an excavation should be conducted because conditions change within the confines of the excavation during the day which can endanger company personnel.

**5. §195.402 (See above)**

**(d) Abnormal operation. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when operating design limits have been exceeded;**

**(5) Periodically reviewing the response of operator personnel to determine the effectiveness of the procedures controlling abnormal operation and taking corrective action where deficiencies are found.**

The procedure was inadequate because it needs to add more clarification and guidance to reflect what they do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures addressing this. However, further review of the revised procedures identified the following issues. The procedures indicated that they meet this requirement with the Abnormal Documentation Log that is filled out by the controllers and reviewed by the control room manager. This is inadequate because it does not address the actions taken at the

field location. The procedure also seems to specifically point out that exceeding the MOP is the only reason to conduct a review. There are other abnormal operations where the company should conduct the review of the procedures.

6. §195.402 (See above)

**(e) Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;**

**(2) Prompt and effective response to a notice of each type emergency, including fire or explosion occurring near or directly involving a pipeline facility, accidental release of hazardous liquid or carbon dioxide from a pipeline facility, operational failure causing a hazardous condition, and natural disaster affecting pipeline facilities.**

The procedure was inadequate because more guidance is needed to include what they do for operational failures and natural disasters. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

7. §195.402 (See above)

**(e) Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;**

**(7) Notifying fire, police, and other appropriate public officials of hazardous liquid or carbon dioxide pipeline emergencies and coordinating with them preplanned and actual responses during an emergency, including additional precautions necessary for an emergency involving a pipeline transporting a highly volatile liquid.**

The procedure was inadequate because it did not reference any of the highly volatile liquid (HVL) requirements. SemStream facilities are HVL facilities and the site specific emergency plans should be referenced by this section. On April 11, 2011, your personnel submitted amended procedures addressing this. However, the new procedures submitted still did not reference the SemStream facilities and the site specific emergency plans.

8. §195.402 (See above)

**(e) Emergencies. The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs;**

**(8) In the case of failure of a pipeline transporting a highly volatile liquid, use of appropriate instruments to assess the extent and coverage of the vapor cloud and determine the hazardous areas.**

The procedure was inadequate because it did not reference any of the highly volatile liquid (HVL) requirements. The procedure to evaluate the extent and coverage of the vapor cloud and hazardous areas should fully reference other parts of the manual that readily identify actions taken. It should also indicate that appropriate instruments will be utilized to determine the extent and coverage of the vapor cloud. On April 11, 2011, your personnel submitted amended procedures addressing this. The amended procedure did not address instrumentation to be used for the size of the vapor cloud or reference the other parts of the manual addressing actions taken.

9. §195.402 (See above)

**§195.428(a) Overpressure safety devices and overflow protection systems**

**Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be-**

- (a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.**

The procedures were inadequate because it did not include that thermal reliefs and control valves will be inspected and that the procedures to inspect these devices are in the Operator Qualifications plan. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

10. §195.402 (See above)

**§195.432(b) Breakout tanks.**

- (b) Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3).**

The procedure was inadequate because it did not indicate that the breakout tanks will be inspected per the time intervals specified in API 653. Currently, the procedures indicate that the tanks will be inspected once a year not to exceed 15 months. This is not correct in that

these tanks are under Section (b) and (c) of the code. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**11. §195.402 (See above)**

**§195.442(c) Damage Prevention Program – The damage prevention program required by paragraph (a) of this section must, at a minimum:**

**(1) Include the identity, on a current basis of persons who normally engage in excavation activities in the area in which the pipeline is located.**

The procedures in the O&M manual were inadequate because it just restated the code. More guidance is needed to reflect what the company will do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**12. §195.402 (See above)**

**§195.442(c) Damage Prevention Program – The damage prevention program required by paragraph (a) of this section must, at a minimum:**

**(2) Provides for notification of the public in the vicinity of the pipeline and actual notification of persons identified in paragraph (c)(1) of this section of the following as often as needed to make them aware of the damage prevention program:**

- (i) The program's existence and purpose; and**
- (ii) How to learn the location of underground pipelines before excavation activities are begun.**

The procedures in the O&M manual for this requirement were inadequate because it just restated the code. More guidance is needed to reflect what the company will do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**13. §195.402 (See above)**

**§195.442(c) Damage Prevention Program – The damage prevention program required by paragraph (a) of this section must, at a minimum:**

**(3) Provide a means of receiving and recording notification of planned excavation activities.**

The procedures in the O&M manual for this requirement were inadequate because it just restated the code. More guidance is needed to reflect what the company will do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**14. §195.402 (See above)**

**§195.442(c) Damage Prevention Program – The damage prevention program required by paragraph (a) of this section must, at a minimum:**

**(3) If the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary markings to be provided and how to identify the markings.**

The procedures in the O&M manual for this requirement was inadequate because it just restated the code. More guidance is needed to reflect what the company will do to meet this requirement. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

**15. §195.402 (See above)**

**§195.579(a) - What must I do to mitigate internal corrosion?**

**(a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.**

The procedure as it pertains to HVLs is inadequate because it must be expanded to indicate what they are doing and what they have to verify that the propane is free of water and does not constitute a problem with internal corrosion. On April 11, 2011, your personnel submitted amended procedures addressing this. No further action is required.

Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237. Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance 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). 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, after opportunity for a hearing, your plans or procedures are found inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.237). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 90 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested (not mandated) that SemGroup LP maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to David Barrett, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. In correspondence concerning this matter, please refer to CPF 3-2011-5007M and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. A. Barrett', written over a horizontal line.

David Barrett  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

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



## Response Options for Pipeline Operators in Compliance Proceedings

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Be advised that all material submitted by a respondent in response to an 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).

### I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. When the Notice contains a proposed CIVIL PENALTY\* --
  1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;
  2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Refer to 49 C.F.R. § 190.225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based;
  3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
  4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a proposed COMPLIANCE ORDER\* --

1. If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a WARNING ITEM --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT\*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the

Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;

- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

### III. Procedure for Requesting a Hearing

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

### IV. Extensions of Time

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

### V. Freedom of Information Act

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption

provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. Small Business Regulatory Enforcement Fairness Act Information

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to [http://www.sba.gov/ombudsman/dsp\\_faq.html](http://www.sba.gov/ombudsman/dsp_faq.html).

VII. Payment Instructions

*Civil Penalty Payments of Less Than \$10,000*

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration  
Mike Monroney Aeronautical Center  
Financial Operations Division (AMZ-341) P.O. Box 269039  
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

*Civil Penalty Payments of \$10,000 or more*

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

## INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #1** - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

**Block #7** - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #10** - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

**NOTE:** A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8893 at the time you send the wire transfer.

February 2009