

NOTICE OF AMENDMENT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 12, 2011

Kevin Webber
Vice President of Business Development and Operations
Florida Public Utilities
401 S Dixie Hwy
West Palm Beach, FL 33401-5807

CPF 2-2011-0007M

Dear Mr. Webber:

On September 12-15, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected the Florida Public Utilities (FPU) written procedures for Operations and Maintenance (O&M) in Winter Haven, Florida, pursuant to Chapter 601 of 49 United States Code.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within FPU's plans or procedures, as described below:

1. § 191.3 Definitions.

As used in this part and the PHMSA Forms referenced in this part—

... Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline, or of liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

- (i) A death, or personal injury necessitating in-patient hospitalization;**
- (ii) Estimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost;**
- (iii) Unintentional estimated gas loss of three million cubic feet or more;**

(2) An event that results in an emergency shutdown of an LNG facility. Activation of an emergency shutdown system for reasons other than an actual emergency does not constitute an incident.

(3) An event that is significant in the judgment of the operator, even though it did not meet the criteria of paragraphs (1) or (2) of this definition.

FPU's procedure defining an "incident" did not exclude the cost of lost gas in the estimated property damage and did not include the unintentional estimated gas loss of three million cubic feet or more.

2. § 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, each operator shall give notice in accordance with paragraph (b) of this section of each incident as defined in §191.3.

(b) Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202 267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

(1) Names of operator and person making report and their telephone numbers.

(2) The location of the incident.

(3) The time of the incident.

(4) The number of fatalities and personal injuries, if any.

(5) All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages.

FPU's procedure for immediate notification of certain incidents did not require notification of the National Response Center and did not incorporate the most recent updates found in the Federal Register published on November 26, 2010.

3. § 192.11 Petroleum gas systems.

... (b) Each pipeline system subject to this part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

FPU's odorization procedures did not incorporate the requirements of NFPA 58 (2004), Section 4.2.3.

When odorization is required, NFPA 58 (2004), Section 4.2.3, mandates that the presence of odorant be determined by sniff-testing or other means and that the results shall be documented as follows:

(1) When LP-Gas is delivered to a bulk plant

(2) When shipments of LP-Gas bypass the bulk plant

4. § 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 6 of API 1104 (incorporated by reference, see §192.7) or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, see §192.7). However, a welder qualified under an earlier edition than listed in §192.7 of this part may weld but may not requalify under that earlier edition.

FPU's procedures for the qualification of welders were incorrect because it stated that welders would be qualified in accordance with Section 3 of API 1104 instead of Section 6.

5. § 192.383 Excess flow valve installation.

... (b) Installation required. An excess flow valve (EFV) installation must comply with the performance standards in §192.381. The operator must install an EFV on any new or replaced service line serving a single-family residence after February 12, 2010, unless one or more of the following conditions is present:

FPU's procedures for excess flow valve installation were incorrect because they referenced performance standards located in 49 USC and not the performance standards identified in §192.381.

6. § 192.747 Valve maintenance: Distribution systems.

(a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

(b) Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.

FPU's valve maintenance procedures did not require that FPU take prompt remedial action to correct each valve necessary for the safe operation of its distribution system found inoperable or designate an alternative valve.

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 60 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 Florida Public Utilities maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Wayne T. Lemoi, Director, Office of Pipeline Safety, PHMSA Southern Region. In correspondence concerning this matter, please refer to **CPF 2-2011-0007M** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region

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

cc: Mike McCarty
Safety and Training Manager
Florida Public Utilities
1015 6th Street NW
Winter Haven, FL 33881-4018