



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

233 Peachtree Street Ste. 600  
Atlanta, GA 30303

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

June 21, 2007.

Ms. Patty Walker  
Group Vice President Ohio and Kentucky Gas Operations  
Duke Energy Corporation  
139 East Fourth Street  
Cincinnati, Ohio 45202

**CPF 2-2007-6009**

Dear Ms. Walker:

On October 30 through November 3, 2006, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) Central Region and the Kentucky Public Service Commission pursuant to Chapter 601 of 49 United States Code inspected your propane pipelines in Ohio and Kentucky.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

- 1) **§195.404 Maps and Records**
  - (c) **Each operator shall maintain the following records for the periods specified;**
  - (3) **A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

Duke Energy did not accurately document the inspections of relief devices on the LP-3 pipeline in 2005. At the Erlanger Cavern location in September or October 2005, an additional relief device was installed on the LP-3 pipeline. Duke Energy could not produce any documentation that the additional relief device was tested as required by

195.262 (c). After the inspection, Duke Energy presented two signed affidavits that an inspection was completed on or about December 6, 2005.

2) **§195.410 Line markers.**

**(a) Each operator shall place and maintain line markers over each buried pipeline in accordance with the following:**

**(ii) The name of the operator and a telephone number (including area code) where the operator can be reached at all times.**

A Duke Energy line marker was observed displaying incorrect information. The line marker in Kentucky was found displaying the disconnected emergency telephone number 513-632-3636.

3) **§195.412 Inspection of rights-of-way and crossings under navigable waters.**

**(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way.**

For calendar year 2005, Duke Energy did not patrol the LP-3 pipeline in Kentucky 26 times in a calendar year. In 2005, Duke Energy's records indicated the pipeline was patrolled only 24 times.

4) **§195.428 Overpressure safety devices and overflow protection systems**

**(a) Each operator shall 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.**

Duke Energy did not inspect the relief devices located at the Erlanger Cavern associated with their LP-3 propane pipeline in Kentucky twice a year in 2006. Duke Energy indicated that the relief devices were not inspected twice in 2006 because at the time of one of the required inspections, the propane pipeline was shut down.

5) **§195.440 Public education. [Amdt. 195-15; Docket PS-51]**

**Each carrier shall establish a continuing educational program to enable the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a liquid pipeline emergency and to report it to the carrier or the fire, police, or other appropriate public officials.**

Duke Energy did not implement a continuing educational program for years 2003, 2004, and 2005 directed at the public in the vicinity of their propane pipelines in Kentucky.

6) **§195.589 What corrosion control information do I have to maintain?**

**(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist..**

Duke Energy did not document internal inspections of the LP-3 pipeline. In 2005, Duke Energy replaced valves on the LP-3 propane pipeline in Kentucky. At that time, the pipeline's internal surface was exposed during the replacement of five (5) valves. A cylinder of pipe had to be removed from the pipeline to accommodate the installation of new longer valves. The extra cylinders of pipe were sent to Duke Energy's corrosion department for examination for internal corrosion. No records were made of these examinations.

Proposed Compliance Order

With respect to items 2 and 5 above, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Duke Energy. Please refer to the *Proposed Compliance Order* that is enclosed and made a part of this Notice.

Warning Items


With respect to items 1, 3, 4, and 6 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. Be advised that failure to do so may result in Duke Energy being subject to additional enforcement action.

Response to this Notice

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.

In your correspondence on this matter, please refer to **CPF 2-2007-6009** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in cursive script that reads "Linda Daugherty".

Linda Daugherty  
Director, Southern Region  
Pipeline and Hazardous Materials Safety Administration

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

## PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 2 of the Notice pertaining to inaccurate line markers, Duke Energy shall update all line markers to display a current telephone number.
2. In regard to Item Number 5 of the Notice pertaining to not implementing during 2003, 2004, and 2005 a continuing educational program directed at the public in the vicinity of your propane pipelines in Kentucky, Duke Energy shall provide an additional notification of the affected public in the vicinity of the propane pipelines with relevant propane pipeline information. This additional public notification shall be in addition to implementing the provisions of your new public awareness plan which follows the guidance provided in API 1162.
3. Duke Energy shall within 120 days after receipt of a Final Order complete items 1 and 2 of this Proposed Compliance Order.
4. Duke Energy shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Linda Daugherty, Director, Southern Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.