

**NOTICE OF PROBABLE VIOLATION
And
PROPOSED CIVIL PENALTY**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 23, 2010

Mr. Jeryl Mohn
Senior Vice President, Operations and Engineering
Florida Gas Transmission Company, LLC
5444 Westheimer Road
Houston, TX 77056

CPF 2-2010-1004

Dear Mr. Mohn:

As a result of the May 4, 2009 pipeline accident on the Florida Gas Transmission (FGT) 18 inch pipeline in Martin County, Florida, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code investigated the accident and inspected FGT pipeline facilities and records involved in the accident. 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. §192.5 Class Locations.

...(b) Except as provided in paragraph (c) of this section, pipeline locations are classified as follows:

(3) A Class 3 location is:

(ii) An area where the pipeline lies within 100 yards (91 meters) of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

FGT failed to identify the Class 3 locations on pipelines at the location of the May 4, 2009 pipeline rupture in Martin County, Florida. The South Fork High School's 4-H agricultural facilities are within 100 yards of the FGT pipelines. South Fork High School has 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period in the 4-H agricultural area.

2. §199.105 Drug tests required.

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

...(b) Post-accident testing. As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident Procedural manual for operations, maintenance, and emergencies.

FGT did not test all pipeline controllers involved in the pipeline accident that occurred on May 4, 2009. FGT tested two of the four controllers that were involved in the pipeline accident.

3. §199.225 Alcohol tests required.

Each operator shall conduct the following types of alcohol tests for the presence of alcohol: (a) Post-accident.

(1) As soon as practicable following an accident, each operator shall test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident.

FGT did not perform alcohol test on all four controllers that were involved in the pipeline accident. FGT tested two of the four controllers that were involved in the pipeline accident.

4. §192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) The date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service.

FGT did not maintain records as required of §192.709(a). FGT initially believed that no repairs had been made to the 18 inch polyken tape coated pipeline in the area of the rupture. It was later discovered that the ruptured pipeline had polyken tape coated pipe (original coating) and fusion bond epoxy (FBE) coated pipe. The repair records for the 18 inch FBE coated pipe were not available. FGT believes that the FBE coated pipe

was installed into the pipeline as a repair for external corrosion discovered by a 2004 smart pig run. No specific information on the date and location of the repair was available. FGT was able to produce pressure test documentation for the FBE pipe.

5. §192.615 Emergency plans

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following:

.....

(3) Prompt and effective response to a notice of each type of emergency, including the following:

.....

(iii) Explosion occurring near or directly involving a pipeline facility.

.....

(6) Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.

The May 4, 2009 FGT pipeline accident in Martin County Florida occurred at approximately 5:09 am EST. FGT was initially unaware of the pipeline explosion until Martin County Fire and Rescue contacted FGT's Houston Control room at 5:49 EST. The Florida Highway Patrol log indicated that at 5:17 am the patrolman advised he smelled gas – possible gas leak.

The upstream main line break valve 20-1 closed as a result of the rupture, but the down stream main line break valve 20-2 did not close, which allowed gas to back flow into the rupture, feeding from the parallel 30 inch pipeline for roughly two hours until FGT manually close the down stream main line break valve 20-2. The Florida Turnpike and Interstate 95 was shut down for several hours as a result of this accident.

FGT's emergency response was not prompt as a result of this time delay in rupture discovery. FGT's Supervisory Control and Data Acquisition (SCADA) system did not recognize the failure.

6. §192.905 How does an operator identify a high consequence area?

(a) General. To determine which segments of an operator's transmission pipeline system are covered by this subpart, an operator must identify the high consequence areas. An operator must use method (1) or (2) from the definition in § 192.903 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system. An operator must describe in its integrity management program which method it is applying to each portion of the operator's pipeline system. The description must include the potential impact

radius when utilized to establish a high consequence area. (See appendix E.I. for guidance on identifying high consequence areas.)

(b)(1) Identified sites. An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.

(2) If a public official with safety or emergency response or planning responsibilities informs an operator that it does not have the information to identify an identified site, the operator must use one of the following sources, as appropriate, to identify these sites.

- (i) Visible marking (e.g., a sign); or**
- (ii) The site is licensed or registered by a Federal, State, or local government agency; or**
- (iii) The site is on a list (including a list on an internet web site) or map maintained by or available from a Federal, State, or local government agency and available to the general public.**

.....

**§192.903 What definitions apply to this subpart?
Identified site means each of the following areas:**

- (a) An outside area or open structure that is occupied by twenty (20) or more persons on at least 50 days in any twelve (12)-month period. (The days need not be consecutive.) Examples include but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, recreational areas near a body of water, or areas outside a rural building such as a religious facility; or**
- (b) A building that is occupied by twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12)- month period. (The days and weeks need not be consecutive.) Examples include, but are not limited to, religious facilities, office buildings, community centers, general stores, 4-H facilities, or roller skating rinks; or**

FGT failed to identify the High Consequence Areas (HCA) located at the May 4, 2009 rupture location in Martin County, FL adjacent to the South Fork High School’s 4-H agricultural facilities. The potential impact radius (PIR) for the 18 inch FGT pipeline is 365 feet. The 4-H agricultural facility is located within the PIR of the FGT pipelines and has students in the area five days a week. FGT is in the process of extending the HCA segments to include these pipeline segments.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$95,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$ 40,000
3	\$ 40,000
4	\$ 15,000

Warning Items

With respect to items: 1, 5 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 Florida Gas Transmission 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 2-2010-1004** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

cc: Mr. David Shellhouse, Vice President Operations-Southeast Division, FGT