



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

233 Peachtree Street Ste. 600
Atlanta, GA 30303

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 2, 2011

Mr. Robert L. Rose
President
Tampa Pipeline Corporation
The Pipelines of Puerto Rico, Inc.
P.O. Box 35236
Sarasota, FL 34242

CPF 2-2011-6007

Dear Mr. Rose:

On May 16 - 20, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected The Pipelines of Puerto Rico, Inc. (PLPR) jet fuel pipeline system in Guaynabo, Puerto Rico. PLPR is a subsidiary of the Tampa Pipeline Corporation (TPC).

As a result of the inspection, it appears that PLPR has 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.**
 - (a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:**
 - (3) The maximum operating pressure of each pipeline.**

PLPR did not maintain a current and accurate record of the maximum operating pressure (MOP) of its pipeline. PLPR shows the MOP of its pipeline as 904 psig in one record, 1,104 psig in another record (627 psig in the Table of that same record), and 627 psig in a letter written to the PHMSA Southern Region on September 8, 2010.

In preparation for the inspection, the Director, PHMSA Southern Region, sent a written *Request for Information* to TPC on August 16, 2010, requesting clarification of the MOP of the PLPR pipeline. TPC responded in writing on September 8, 2010. In its response, TPC stated that an original pressure test was conducted on the pipeline on March 28-29, 1966, to a minimum pressure of 1,430 psig and, based on this test the original MOP of the PLPR was established as 1,144 psig [i.e. 0.8 x 1430].

TPC explained, however, that a new MOP had been established in 2004. That is TPC stated, “[*The*] current maximum operating pressure of 627 psig [was] established using [a] pressure test conducted [on] October 5, 2004.” TPC further explained that the “pressure test certification shows [the] test was performed in accordance with 49 CFR 195.303...” TPC also included Attachment PLPR 3-1 in its response, which is an excerpt from PLPR’s written operations and maintenance manual. It shows the MOP of the pipeline as 1,104 psig in section 4.9.1 *Maximum Operating Pressure* and the MOP of the pipeline as 627 psig in Table 4.9-1. During the follow-up inspection in May 2011, the PHMSA inspector reviewed PLPR’s records where the MOP was shown as 904 psig.

In summation, the operator provided the original MOP of the pipeline (1,144 psig) and three different values (627 psig, 904 psig, and 1,104 psig) for the current MOP of the pipeline.¹

2. §195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

.... (2) The marker must state at least the following on a background of sharply contrasting color:

(i) The word "Warning," "Caution," or "Danger" followed by the words "Petroleum (or the name of the hazardous liquid transported) Pipeline", or "Carbon Dioxide Pipeline," all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of 1/4 inch (6.4 millimeters).

The line markers along the PLPR pipeline system did not contain the word “Petroleum” or “the name of the hazardous liquid transported.” During the field inspection of the 6-inch jet fuel pipeline, the PHMSA inspector observed and took a picture of line markers with the word “gasoline.” This pipeline transports jet fuel, not gasoline.

¹ PHMSA has reviewed PLPR’s MOP records and determined that the only valid MOP of the pipeline that meets the regulations in Part 195 is the 1,144 psig based on the original hydrostatic pressure test. The 1,104 psig in PLPR’s records appears to be a typographical error. The 904 psig in PLPR’s records appears to be a mathematical error based on using the wrong minimum test pressure; i.e. 0.8 x 1,130 psig instead of 0.8 x 1,430 psig. The 627 psig that TPC provides in its September 8, 2010, letter as the “current” MOP is based on an invalid pressure test. Despite TPC’s claim, the pressure test conducted on October 5, 2004, was not performed in accordance with §195.303.

3. §195.452 Pipeline integrity management in high consequence areas.

.... (f) *What are the elements of an integrity management program?*

.... (2) A baseline assessment plan meeting the requirements of paragraph (c) of this section;

PLPR has not conducted a valid integrity management program (IMP) baseline assessment on its 6-inch diameter, 9.5-mile pipeline that transports jet fuel from the Catano Pumping Station to the Luis Munoz Marin International Airport in San Juan, Puerto Rico. The PLPR pipeline is a Category 2 pipeline per §195.452(a)(2). Operators must have completed a valid IMP baseline assessment for Category 2 pipelines not later than February 17, 2009.

PLPR assessed its pipeline by conducting annual pressure tests in October 2004, October 2005, November 2006, September 2007, and September 2008 using the jet fuel in the pipeline as the test medium. PLPR provided PHMSA with letters from the testing contractor, Petroleum Technical Services, Inc., "*certifying*" that each of these pressure tests was performed in accordance with the federal pipeline safety regulations in 49 CFR 195, Subpart E-Pressure Testing. PHMSA has reviewed these certification letters, which include the test procedures, test pressures, time lines, and other data, and we have determined that none of these pressure tests met the pressure testing requirements in Part 195, Subpart E. Moreover, PLPR has not used any other assessment method allowed by the regulations in §195.452(c)(i). Therefore, PLPR has not completed a valid IMP baseline assessment of its pipeline in accordance with the federal pipeline safety regulations in 49 CFR Part 195.

The pressure tests used by PLPR from 2004-2008 were not in accordance with the federal pipeline safety regulations in 49 CFR 195, Subpart E-Pressure Testing for several reasons. First, the tests were conducted using jet fuel. The regulations require the test medium to be water. Second, pressure tests must be conducted without leakage. Other than the testing contractor's statement that there were no leaks during these pressure tests, PLPR provided no conclusive evidence that the pipeline was not leaking during any of the tests. The pressure declined significantly in several of the tests and the contractor attributed all of these pressure declines to changes in temperature without any engineering analysis or other proof to show that none of the pressure declines were, in fact, due to leakage.

Moreover, the basic premise of each test was wrong. The tests were conducted by PLPR's contractor such that the minimum test pressure was at least 125% above the "*regular operating pressure of the pipeline.*" However, the regulations in Part 195, Subpart E require pressure tests to equal or exceed 125% of the maximum operating pressure (MOP) of the pipeline, not to equal or exceed 125% the regular operating pressure. Because the regular operating pressure of the pipeline was well below the MOP at the time of each test, the minimum test pressure of each test was also well below the minimum required test pressure of 125% MOP. To assess for an MOP of 1,144 psig, for example, the minimum test pressure would have to be 1,430 psig. The highest test pressure obtained in all of these tests was 839 psig.

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 \$20,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$20,000

Warning Items

With respect to items 1 and 2 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 The Pipelines of Puerto Rico, Inc. being subject to additional enforcement action.

Proposed Compliance Order

With respect to item 3, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to The Pipelines of Puerto Rico, Inc. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 2-2011-6007** 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 "Wayne T. Lemoi". The signature is fluid and cursive, written over the printed name.

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

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 The Pipelines of Puerto Rico, Inc. (PLPR) a Compliance Order incorporating the following remedial requirements to ensure the compliance of The Pipelines of Puerto Rico, Inc. with the pipeline safety regulations:

1. In regard to Item Number 3 of the Notice pertaining to the failure of PLPR to complete a valid integrity management program (IMP) baseline assessment on its jet fuel pipeline, PLPR must, within 60 days of receipt of this Order, develop a plan to complete a valid IMP baseline assessment of its jet fuel pipeline from the Catano Pumping Station to the Luis Munoz Marin International Airport in San Juan, Puerto Rico, within 120 days of the receipt of this Order. The plan must meet the regulations in §195.452.
2. PLPR must submit the plan described in Item 1 above to the Director, PHMSA Southern Region for review and approval not later than 60 days after the receipt of this Order.
3. It is requested (not mandated) that PLPR maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Wayne T. Lemoi, Director, Southern 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.