

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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

May 9, 2012

Mr. Robert L. Rose
President
Tampa Bay Pipeline Company
P.O. Box 35236
Sarasota, FL 34242

CPF 2-2012-6008

Dear Mr. Rose:

From September 12-16, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, inspected the Tampa Bay Pipeline Company (TBPL) Pipeline Integrity Management Plan (IMP) in Tampa, Florida, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that TBPL has committed probable violations of the Pipeline Safety Regulations codified in Title 49 of the Code of Federal Regulations. The items inspected and the probable violations are as follows:

1. §195.452 Pipeline integrity management in high consequence areas.

.... (c) *What must be in the baseline assessment plan?*

(1) An operator must include each of the following elements in its written baseline assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

.... (C) Other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the

assessment, by sending a notice to the address or facsimile number specified in paragraph (m) of this section.¹

TBPL did not properly perform the integrity assessment of its line pipe using External Corrosion Direct Assessment (ECDA), the pipeline integrity assessment method TBPL selected for its baseline assessment plan. That is, because TBPL did not account for all above ground pipe and all pipe in vaults, it did not properly perform the ECDA Pre- Assessment Step, which included the

- (1) ECDA Feasibility Assessment,
- (2) Selection of Indirect Inspection Tools, and
- (3) Identification of ECDA Regions.

In a letter dated July 20, 2005, TBPL notified the PHMSA Southern Region Director that it would use ECDA to complete its pipeline integrity assessment in accordance with paragraph §195.452(c)(1)(i)(C). Prior to November 25, 2005, ECDA was considered “other technology,” which required a pipeline operator to give the Office of Pipeline Safety (OPS) [i.e. PHMSA] 90 days notice before conducting the assessment. In its notification letter, TBPL stated that its “*assessment technology as a minimum follows ASME B31.8S Managing System Integrity of Gas Pipelines and the NACE RP 0502, standard Recommended Practices for External Corrosion Direct Assessment.*” The NACE 0502 edition in place at that time was the 2002 edition, which was not incorporated by reference into the federal pipeline safety regulations in Part 195 at that time.

Notwithstanding TBPL’s statements in its July 20, 2005, letter, TBPL had above ground pipe and pipe in vaults, which were not properly addressed in the ECDA Pre-Assessment Step completed before November 25, 2005, in accordance with NACE 0502 as follows:

- (1) ECDA Feasibility Assessment: NACE RP0502-2002 sub-section 3.3.1 required the operator to determine whether there were conditions where indirect inspection tools could not be used and sub-section 3.3.2 allowed the operator to use ECDA if the operator used other methods of assessing the integrity of the line pipe. Indirect inspection tools cannot assess above ground pipe or pipe in vaults.
- (2) Selection of Indirect Inspection Tools: NACE RP0502-2002 sub-section 3.4.1 required the operator to select at least two indirect inspection tools for all locations where ECDA was applied, based on the ability of the tools to assess the pipe conditions, while allowing the substitution of 100% direct examination. Indirect inspection tools cannot assess above ground pipe or pipe in vaults.
- (3) Identification of ECDA Regions: NACE RP0502-2002 sub-section 3.5.1 required the operator to identify ECDA regions based on having similar physical characteristics and using the same indirect inspection tools. In performing the ECDA Pre-Assessment TBPL determined that ECDA was feasible using two indirect inspection tools over the pipeline segments, except for pipe in casings which were included in separate ECDA regions. TBPL did not identify the above ground pipe and pipe in vaults as locations where ECDA indirect inspection tools could not be applied. These locations should have been identified as separate ECDA regions.

¹ §195.452(c)(1)(i)(C) as stated above reflects the code language in place prior to November 25, 2005, at the time TBPL undertook its baseline assessment using ECDA. The code has been amended several times since then. ECDA was considered “Other Technology” prior to November 25, 2005.

2. §195.452 Pipeline integrity management in high consequence areas.

.... (c) What must be in the baseline assessment plan?

(1) An operator must include each of the following elements in its written baseline assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

.... (D) Other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the address or facsimile number specified in paragraph (m) of this section.²

TBPL did not properly perform the integrity assessment of line pipe in casings using Guided Wave Ultrasonic Testing (GWUT), the pipeline integrity assessment method TBPL selected for pipe in casings. Specifically, TBPL did not assess all of its line pipe in several casings assessed with GWUT because the inspection range of the GWUT was less than the total length of the pipe in the casings.

TBPL’s IMP *Section 6.0 Direct Assessment Plan* required multiple GWUT “shots” if the inspection range was less than the total length of the pipe inside the casing. For the casings listed below, the GWUT inspection range was less than the total length of the pipe inside the casings but TBPL completed only one GWUT “shot” which resulted in pipe within the casing not being assessed by the GWUT.

Casing	Location	Length of Pipe in Casing	GWUT Inspection Range
2-5	South side of 22nd St - ½ mile W. Sagasta	40-feet	36-feet
6-10	Keysville Rd @ CR 640	68-feet	53-feet
6-11	Bypass across CR 640 @ County Line Rd	72-feet	42-feet
7-20	Retaining Pond on Fishhawk Blvd 1st casing W of CR 640	50-feet	27-feet
9-2	Nichols Rd & Anderson Rd	65-feet	43-feet

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

.... (d) When must operators complete baseline assessments? Operators must complete baseline assessments as follows:

(1) Time periods. Complete assessments before the following deadlines:

If the pipeline is:	Then complete baseline assessments not later than the following date according to a schedule that prioritizes assessments:	And assess at least 50 percent of the line pipe on an expedited basis. Beginning with the highest risk pipe, not later than:
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² §195.452(c)(1)(i)(D) as stated here reflects the code language in place after November 25, 2005, during which time TBPL undertook casing assessments using GWUT.

If the pipeline is:	Then complete baseline assessments not later than the following date according to a schedule that prioritizes assessments:	And assess at least 50 percent of the line pipe on an expedited basis. Beginning with the highest risk pipe, not later than:
Category 1	March 31, 2008	September 30, 2004
Category 2	February 17, 2009	August 16, 2005
Category 3	Date the pipeline begins operation	Not applicable

TBPL failed to complete the baseline assessments before the required deadline. That is, failed to complete the baseline assessment of all line pipe in HCAs by February 17, 2009.

TBPL is a Category 2 pipeline per §195.452(a). The regulations required operators of Category 2 pipelines to complete the baseline assessment of all line pipe in HCAs not later than February 17, 2009. It should be noted that TBPL classified all its pipeline segments as HCAs in August 2005 as stated in Section 4.0 of its IMP dated October 2005.

TBPL did not complete the entire baseline assessment of all of its line pipe within HCAs by the required deadline; i.e. February 17, 2009. While TBPL used ECDA, GWUT, and pressure testing to assess its line pipe in HCAs, it did not assess all of the line pipe in HCAs because it did not assess all of the line pipe in vaults, all above ground line pipe, and all line pipe in casings.

Prior to February 17, 2009, TBPL assessed the line pipe in some of its casings by GWUT. However, it did not fully assess the line pipe in casings labeled 2-5, 6-10, 6-11, 7-20, and 9-2. That is, due to the limitations of GWUT the entire length of the pipes within the casings was not assessed. The GWUT tool was run from only one end of the casings, which resulted in only a partial assessment of the pipe in the casings.

After the February 17, 2009 deadline, TBPL continued to assess the pipe in casings that had not been assessed by either pressure testing or GWUT by using procedures based on PHMSA’s March 1, 2010 “*Guidelines for Integrity Assessment of Cased Pipe Using ECDA.*” TBPL used this process in CY 2010 and CY 2011 to assess line pipe in casings labeled 2-6, 2-7, 2-8, 3-1, 3-2, 3-4, 4-1, 4-2, 4-3, 6-1, 6-3, 6-4, 6-5, 6-7, 6-8, 6-9, 6-12, 6-13, 6-15, 6-16, 6-17, 7-1, 7-27-4, 7-6, 7-10, 7-11, 7-13, 7-28, and 11-2. At the time of the PHMSA inspection, the casings inspected in CY 2010 and 2011 did not include the five casings previously inspected by GWUT, which were incomplete because all the pipe in the casings was not assessed. Additionally, TBPL did not properly follow its procedures to identify and assess line pipe in vaults and above ground line pipe.

4. §195.452 Pipeline integrity management in high consequence areas.

.... (k) What methods to measure program effectiveness must be used?

An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

TBPL’s IMP did not include appropriate methods to measure whether the program was effective in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas; and, TBPL failed to perform annual IMP effectiveness reviews in 2008, 2009, and 2010 as required by its written IMP procedures.

PHMSA regulations require TBPL to have methods to measure the effectiveness of its IMP in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas. TBPL's IMP *Section 12.0 Program Evaluation* did not include appropriate methods to accomplish this task. Instead, it restated the guidance from PHMSA *Protocol # 8.01 Program Evaluation: Process Approach*, *Protocol # 8.02 Program Evaluation: Performance Measures*, and *Protocol # 8.03 Program Evaluation: Communication of Evaluation Results*; and, it required TBPL to complete an annual IMP evaluation using an outside consultant "... to adequately assess the integrity of the pipeline segments." That is not the intent of the code, which is to evaluate the effectiveness of the program in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas. The IMP itself is what assesses and evaluates the integrity of each pipeline segment.

Also, TBPL's IMP *Section 12.0 Program Evaluation* stated that an audit was conducted on June 12 and 13, 2007, but there were no records or other evidence to show that a program effectiveness evaluation had been completed in subsequent years.

5. §195.452 Pipeline integrity management in high consequence areas.

.... (i) What records must be kept?

(1) An operator must maintain for review during an inspection:

.... (ii) Documents to support the decisions and analyses, including any modifications, justifications, variances, deviations and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

TBPL did not properly document the decisions, analyses, and actions taken to implement and evaluate each element of its IMP. Specifically, TBPL failed to adequately document the analyses and decisions in the evaluations of: 1) TBPL's leak detection capability, 2) if Emergency Flow Restricting Devices (EFRD) were needed on a pipeline segment to protect an HCA in the event of a hazardous liquid pipeline release, and 3) the selection of indirect inspection tools.

TBPL's IMP *Section 10* states that TBPL conducted evaluations of its leak detection system and if EFRDs were needed on a pipeline segment, then briefly described what TBPL accomplished but the records were not adequate. But, the evaluation documentation did not reflect the analyses, decisions, and actions of TBPL in conducting the evaluations and acting on the decisions as were discussed with TBPL personnel during the inspection.

Also, TBPL did not properly document the decisions, analyses, and actions taken to implement and evaluate each element of the integrity management program. Specifically, TBPL failed to adequately document analyses and decisions in the selection of indirect inspection tools during the ECDA Pre-Assessment. TBPL documented the selected indirect inspection tools for each ECDA segment on a *Form D; Indirect Inspection Tool Selection*. The form for each ECDA segment identifies the indirect inspection tools selected, but the analyses and decision basis is not documented.

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 \$66,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$18,700
2	\$18,700
3	\$28,700

Proposed Compliance Order

With respect to items 1, 2, 3, 4, and 5 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tampa Bay Pipeline Co. 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 2-2012-6008** 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

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 Tampa Bay Pipeline Company (TBPL) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Tampa Bay Pipeline Company.

1. In regard to Item Number 1 of the Notice pertaining to the failure of TBPL to properly account for its above ground pipe and pipe in vaults during the External Corrosion Direct Assessment (ECDA), TBPL must perform the appropriate ECDA steps per its procedures to identify the pipe and assign it to appropriate ECDA Region(s).
2. In regard to Item Number 2 of the Notice pertaining to the failure of TBPL to assess all the line pipe in casings 2-5, 6-10, 6-11, 7-20, and 9-2, TBPL must assess all the line pipe in the casings.
3. In regard to Item Number 3 of the Notice pertaining to the failure of TBPL to assess 100% of its line pipe in High Consequence Areas (HCA) by the required deadline, TBPL must identify and assess all the line pipe in HCAs not previously assessed that was required to have been assessed by February 17, 2009.
4. In regard to Item Number 4 of the Notice pertaining to the failure of TBPL to include appropriate methods to measure whether its Integrity Management Program was effective in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas and perform the review, TBPL must develop appropriate measures to evaluate the effectiveness of its Integrity Management Program and perform the effectiveness review. The effectiveness review must be performed by an independent third party, qualified by education and experience, in integrity management and ECDA.
5. In regard to Item Number 5 of the Notice pertaining to the failure of TBPL to adequately document the analyses and decisions in the evaluations of: 1) TBPL's leak detection capability, and 2) if Emergency Flow Restricting Devices (EFRD) are needed on a pipeline segment to protect an HCA in the event of a hazardous liquid pipeline release, TBPL must prepare adequate documentation of the analyses and decisions in TBPLs' evaluations of: 1) TBPL's leak detection capability, and 2) if Emergency Flow Restricting Devices (EFRD) are needed on a pipeline segment to protect an HCA in the event of a hazardous liquid pipeline release.
6. In regards to Compliance Order Items 1 & 5, TBPL must complete these items within 30 days following receipt of the Final Order and must provide to the Director, Office of Pipeline Safety, PHMSA Southern Region, within 45 days following receipt of the Final Order, written documentation confirming the items have been completed.
7. In regards to Compliance Order Items 2, 3 & 4, TBPL should complete these items within 30 days following receipt of the Final Order and provide to the Director, Office of Pipeline Safety, PHMSA Southern Region, within 45 days following receipt of the Final Order, written documentation confirming the items have been completed.

Or,

In regards to Compliance Order Items 2, 3 & 4, if TBPL is unable to complete these items within 30 days following receipt of the Final Order then

- a. Within 30 days following receipt of the Final Order, TBPL must provide the Director, Office of Pipeline Safety, PHMSA Southern Region a written, fact based, explanation as to why these items could not be completed within 30 days.
 - b. Within 30 days following receipt of the Final Order, TBPL must provide the Director, Office of Pipeline Safety, PHMSA Southern Region a written plan to accomplish Compliance Order Items 2, 3 & 4 in accordance with the time frames listed below. The written plan must include the assessment method or methods TBPL will use to assess the line pipe and the method and measures TBPL will use to measure whether its Integrity Management Program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas,
 - c. Within 120 days following receipt of the Final Order, TBPL must have an independent third party, qualified by education and experience in integrity management and ECDA, complete the effectiveness review required by Compliance Order Item 4 above.
 - d. Within 150 days following receipt of the Final Order, TBPL must complete the assessment of the line pipe required by Compliance Order Items 2 and 3 above.
 - e. Within 170 days following receipt of the Final Order, TBPL must provide to the Director, Office of Pipeline Safety, PHMSA Southern Region written documentation confirming that Compliance Order Items 2, 3 & 4 have been completed.
 - f. Within 170 days following receipt of the Final Order, TBPL must make the records and documentation showing the completion of Compliance Order Items 2, 3 and 4 available for inspection by PHMSA representatives.
8. It is requested (not mandated) that TBPL maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Office of Pipeline Safety, PHMSA Southern Region. 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.