

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 17, 2012

Mr. Robert Rose
President
Tampa Pipeline Corporation
P.O. Box 35236
Sarasota, FL 34242

CPF 2-2012-6020

Dear Mr. Rose:

On June 11-12, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety inspected The Pipelines of Puerto Rico, Inc. (PLPR) written Public Awareness Plan at your San Juan, Puerto Rico office, pursuant to Chapter 601 of 49 United States Code.

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 as follows:

1. §195.440 Public awareness.

(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, *see* §195.3).

PLPR did not conduct an annual audit or a review of its written Public Awareness Plan (PAP) in calendar year 2009 to determine whether the program had been developed and implemented in accordance with the guidelines of American Petroleum Institute Recommended Practice 1162 (API RP 1162) as required by *API RP 1162, Section 8.3 Measuring Program Implementation*.

2. §195.440 Public awareness.

(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §195.3).

PLPR did not conduct a Program Effectiveness Evaluation of its written PAP as required by *API RP 1162, Section 8.4 Measuring Program Effectiveness*.

3. §195.440 Public awareness.

.... (g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

PLPR did not conduct its PAP in English. All message material used in its public awareness program was in Spanish only.

Proposed Civil Penalty

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 3, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$8,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$8,700

Warning Items

With respect to Item 1 we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement actions or penalty assessment proceedings at this time. We advise you to promptly correct this item. 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 Items 2 and 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 2-2012-6020** 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 Pipelines of Puerto Rico, Inc. (PLPR) a Compliance Order incorporating the following remedial requirements to ensure the compliance of PLPR with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to PLPR's failure to conduct a Public Awareness Program (PAP) Effectiveness Evaluation, PLPR must conduct a PAP Effectiveness Evaluation.
2. In regard to Item Number 3 of the Notice pertaining to PLPR's failure to conduct its PAP in English, PLPR must prepare and distribute new message material in English. [Note: PHMSA recognizes that Spanish is the predominant language in Puerto Rico; therefore, PLPR can treat the English portion of the message material similar to the way many pipeline operators would treat another language.]
3. PLPR must complete the above Items within the following time requirements.
 - a. Within 30 days of receipt of the Final Order PLPR must complete the requirements of Item 1 above.
 - b. Within 45 days of receipt of the Final Order PLPR must provide written documentation confirming the completion of Item 1 above to the Director, Office of Pipeline Safety, PHMSA Southern Region.
 - c. Within 60 days of receipt of the Final Order PLPR must complete the requirements of Item 2 above.
 - d. Within 75 days of receipt of the Final Order PLPR must provide written documentation confirming the completion of Item 2 above to the Director, Office of Pipeline Safety, PHMSA Southern Region.
4. It is requested (not mandated) that Tampa Pipeline Corporation (TAPC) 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.