

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

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

September 10, 2013

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

CPF 2-2013-6009

Dear Mr. Rose:

On May 13-17, 2013, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety (OPS) inspected the Tampa Bay Pipeline Company (TBPL) control room 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. § 195.446 Control room management.

(a) General. This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate, with the operator's written procedures required by § 195.402. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be

implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph

TBPL did not follow its written control room management (CRM) procedures that implement the requirements of this section [i.e. §195.446].

TBPL's written CRM procedures were contained in TBPL's Operations & Maintenance Procedure Manual (O&M Manual). The following were sections pertaining to CRM in TBPL's O&M Manual.

- Section 8.7.3 stated that TBPL's designated alarm database "*includes identified safety-related alarms.*" But, TBPL had not identified and documented which of its alarms were "*safety-related alarms.*"
- Section 8.7.5 stated,
"*Review SCADA configuration and alarm management operations at least once each calendar year but at intervals not to exceed 15 months.*" But, TBPL did not complete a review its alarm management operations in calendar year 2012.
- Section 8.10 conveyed, in part, that the established training program would include "*Responding to abnormal operating conditions likely to occur simultaneously or in sequence*" [reference also §195.446(h)(1)]. But, between August 1, 2012, and May 13, 2013, TBPL had not included in its training program specific examples or scenarios of abnormal operating conditions likely to occur simultaneously or in sequence.
- Section 8.12 conveyed, in part, that at least once each calendar month "*the General Manager will identify points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities*" [reference also §195.446(e)(2)]. But, TBPL provided no documentation that it had followed this procedure on a monthly basis. Moreover, TBPL personnel acknowledged during the OPS inspection that they had not performed these monthly tasks.
- Section 8.12.5 required TBPL to "*... monitor the content and volume of general activity being directed to and required of each controller that will assure controllers have sufficient time to analyze and react to incoming alarms*" as required by §195.446(e)(5). But, TBPL had not monitored and documented the content and volume of general activity being directed to and required of each controller.

2. § 195.446 Control room management.

... (d) Fatigue mitigation. Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:

... (4) Establish a maximum limit on controller hours-of-service, which may provide for an emergency deviation from the maximum limit if necessary for the safe operation of a pipeline facility.

TBPL failed to properly implement its established maximum limits on controller hours-of-service (HOS) to reduce the risk associated with controller fatigue because it did not follow its established maximum HOS limits for 2 controllers, on 12 instances. TBPL's CRM procedures did not provide for an emergency deviation from the maximum limit HOS if necessary for the safe operation of a pipeline facility.

TBPL's Operations & Maintenance Procedure Manual (O&M Manual) *Section 8.6.1 Work Schedule* conveyed that controllers' "hours-of-service for any seven day period is limited to 65 hours. If in any event 65 hours of service in any seven day period is reached, a minimum of 35 off duty hours will be required prior to returning to work."

Notwithstanding the two limitations above, TBPL's timecard records indicated that 2 controllers exceeded the established maximum 65-hour HOS limit for any 7-day period and, when the controllers reached the 65- hour limit, TBPL did not provide either controller with a minimum of 35 off-duty hours.

The following are the 10 times when TBPL controllers exceeded the 65-hour HOS limit:

- Employee #1, 6 related occasions, 08/26/2012 –09/07/2012
- Employee #2, 4 related occasions, 09/01/2012 – 09/12/2012

The following are the 2 times when TBPL did not provide either controller with a minimum of 35 off-duty hours:

- Employee #1, beginning with end of shift on 09/01/2012
- Employee #2, beginning with end of shift on 09/07/2012

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 4, 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(s) and has recommended that you be preliminarily assessed a civil penalty of \$55,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$27,000
2	\$28,300

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. All material submit in response to this enforcement action may be 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 2-2013-6009** 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: *Response Options for Pipeline Operators in Compliance Proceedings*