

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 18, 2014

Mr. Jeffrey Householder
President
Florida Public Utilities
1015 6th St. NW
Winter Haven, FL 33881

CPF 2-2014-0001

Dear Mr. Householder:

On August 26-30, 2013, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) Southern Region inspected the Florida Public Utilities (FPU) liquefied petroleum gas (LPG) pipeline systems in Brevard, Broward, and Palm Beach counties, Florida, and its records and procedures in West Palm Beach, Florida, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that FPU has 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. § 192.11 Petroleum gas systems.

... (b) Each pipeline system subject to this part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

- FPU did not meet the requirements for “Regulator Installation” in NFPA 58, Section 6.7.4.5, which states that *“The point of discharge from the required pressure relief device on regulating equipment installed outside of buildings in fixed piping systems shall be located not less than 3 ft (1 m) horizontally away from any building opening below the level of such discharge, and not beneath any building unless this space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter.”*

The PHMSA inspectors observed and photographed an FPU pressure relief device with its point of discharge less than 3 feet from a crawlspace vent, which was below the point of discharge, at 1024 Sebastian Rd in the Barefoot Bay system.

- FPU did not meet the requirements for “Regulator Installation” in NFPA 58, Section 6.7.4.6, which states that “*The point of discharge [of a regulator] shall also be located not less than 5 ft (1.5 m) in any direction away from any source of ignition, openings into direct-vent (sealed combustion system) appliances, or mechanical ventilation air intakes.*”

The PHMSA inspectors observed FPU pressure relief devices with points of discharge less than 5 feet from sources of ignition at 1310 NW 55th Avenue in the Lauderhill West system.

2. § 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

FPU did not test each pipeline that is under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection met the requirements of §192.463. FPU was unable to demonstrate that it had performed external corrosion control monitoring on the Lauderhill East system in calendar year 2012.

3. § 192.465 External corrosion control: Monitoring.

... (d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

FPU did not take prompt remedial action to correct external corrosion control deficiencies identified by its monitoring. At its Lauderhill East system, FPU identified a low^a pipe-to-soil reading of -605 mV at 4950 NW 11th Pl on April 4, 2009. FPU records demonstrated that the low potential was not corrected on its 2010, 2011, and 2013 surveys.

4. § 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

^a The criteria for cathodic protection are contained in 49 CFR Part 192, Appendix D. The criteria being referenced in this letter is negative (cathodic) voltage of at least 850mV with reference to a saturated copper-copper sulfate half-cell. Accordingly, a “low” p/s reading is a reading less negative than 850mV.

If the pipeline is located: Then the frequency of inspection is:

- | | |
|-----------------|---|
| Onshore | At least once every 3 calendar years, but with intervals not exceeding 39 months |
| Offshore | At least once each calendar year, but with intervals not exceeding 15 months |

FPU did not inspect each onshore pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion once every 3 calendar years, but with intervals not exceeding 39 months. FPU had six onshore pipeline systems (Barefoot Bay, Caroma Lane, Casa Del Sol, Lauderhill - East, Lauderhill - West, and the Promenade at Inverrary). It did not inspect the exposed portions of these pipeline systems for atmospheric corrosion.

- 5. § 192.605 Procedural manual for operations, maintenance, and emergencies.**
(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

FPU did not review and update its procedural manual for operations, maintenance, and emergencies at intervals not exceeding 15 months, but at least once each calendar year. FPU did not review and update its procedural manual in calendar year 2012; FPU records showed that it reviewed and updated its manual on 10/28/2011 and again on 01/08/2013.

- 6. § 192.605 Procedural manual for operations, maintenance, and emergencies. .**
... (b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.
... (8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

FPU did not periodically review the work done by its personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and to modify the procedure when deficiencies were found. That is, FPU did not provide documentation demonstrating that it periodically reviewed the work done by its personnel or that it modified its procedures when it found deficiencies, as required by the regulations.

- 7. § 192.625 Odorization of gas.**
... (f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor

becomes readily detectable. Operators of master meter systems may comply with this requirement by

- (1) Receiving written verification from their gas source that the gas has the proper concentration of odorant; and**
- (2) Conducting periodic “sniff” tests at the extremities of the system to confirm that the gas contains odorant.**

FPU did not assure the proper concentration of odorant by conducting periodic sampling of combustible gases using an instrument^b capable of determining the percentage of gas in air at which the odor becomes readily detectable. FPU did not perform these instrumented checks for calendar years 2009 - 2013 at its Barefoot Bay, Caroma Lane, Casa Del Sol, Lauderhill-East, Lauderhill - West, and Promenade at Inverarry systems. Additionally, the inspector identified low odorant readings at 327 Kiwi St in the Barefoot Bay system (the location was located on a dead leg of the system with few customers and low utilization).

8. § 192.707 Line markers for mains and transmission lines.

(a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:

- (1) At each crossing of a public road and railroad; and**
- (2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.**

FPU did not place and maintain line markers as close as practical over each buried main at each crossing of a public road. During the field inspection, the inspector identified several locations without line markers where mains crossed public roads at Barefoot Bay, Lauderhill - East, and Lauderhill - West. Additionally, the inspector identified line markers which were faded and difficult to read at Lauderhill – East.

9. § 192.723 Distribution systems: Leakage surveys.

... (b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

- (1) A leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.**

FPU did not conduct leakage surveys in business districts, at intervals not exceeding 15 months, but at least once each calendar year. FPU has business districts within its Lauderhill - East and Promenade at Inverarry systems. FPU records showed that it did not conduct leakage surveys at intervals not exceeding 15 months, but at least once each calendar year, on these systems as follows:

^b Since FPU was not operating a master meter system, the only acceptable method of complying was to use an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable.

- No leak surveys at Lauderhill - East in calendar years 2011 and 2012.
- No leak surveys at the Promenade at Inverrary in calendar years 2011 and 2012.

10. § 192.723 Distribution systems: Leakage surveys.

... (b) **The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:**

... (2) **A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at least once every 5 calendar years at intervals not exceeding 63 months. However, for cathodically unprotected distribution lines subject to §192.465(e) on which electrical surveys for corrosion are impractical, a leakage survey must be conducted at least once every 3 calendar years at intervals not exceeding 39 months.**

FPU did not conduct leakage surveys outside business districts at least once every 5 calendar years at intervals not exceeding 63 months. FPU split its Barefoot Bay system into 5 zones and assigned each zone a color code. One zone is leak surveyed each year, so that after 5 years FPU had performed a leak survey of the entire system. FPU conducted the last survey in the green zone in 2007. While the next inspection of the green zone was due in 2012, FPU had not completed the survey at the time of the PHMSA inspection in August 2013.

11. § 192.739 Pressure limiting and regulating stations: Inspection and testing.

(a) **Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is—**

- (1) **In good mechanical condition;**
- (2) **Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;**
- (3) **Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of §192.201(a); and**
- (4) **Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.**

FPU did not inspect and test its pressure limiting and regulating stations at intervals not exceeding 15 months, but at least once each calendar year. The operator did not conduct regulator inspections for the:

- Caroma system for calendar years 2010, 2011, 2012
- Promenade at Inverrary system for calendar years 2010, 2011, 2012
- Casa Del Sol system for calendar years 2010, 2011, 2012
- Barefoot Bay system for calendar year 2010

During the field inspection, the inspector identified regulator vents that were not properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation on regulator vents at Casa Del Sol and at the underground tank at Lauderhill - West.

12. § 192.741 Pressure limiting and regulating stations: Telemetering or recording gauges.

(a) Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetering or recording pressure gauges to indicate the gas pressure in the district.

FPU did not place telemetering or recording pressure gauges in its distribution systems served by more than one pressure regulating station. FPU fed its Caroma, Casa Del Sol and Lauderhill - West distribution system from two separate regulator stations, however, FPU did not supply telemetering or recording pressure gauges to indicate the gas pressure in the district.

13. § 192.743 Pressure limiting and regulating stations: Capacity of relief devices.

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

FPU did not determine the capacity of relief devices at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations. FPU had a relief device downstream of its regulator station at Lauderhill - East. FPU did not determine that the relief device had sufficient capacity to protect the facilities to which it was connected at intervals not exceeding 15 months, but at least once each calendar year, by testing the device in place or by review and calculations.

14. § 192.747 Valve maintenance: Distribution systems.

(a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

FPU did not check and service each valve which may be necessary for the safe operation of its pipeline distribution system at intervals not exceeding 15 months, but at least once each calendar year. The operator did not inspect the valves on its Caroma, Casa Del Sol, and Promenade at Inverrary systems in calendar years 2011 and 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 \$40,600 as follows:

<u>Item Number</u>	<u>Penalty</u>
10	\$18,700
11	\$21,900

Warning Items

With respect to items 2, 3, 4, 5, 6, 9 and 14, 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. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1, 7, 8, 11, 12, and 13, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Florida Public Utilities, pursuant to 49 United States Code § 60118. 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. All material you 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 2-2014-0001** 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 Florida Public Utilities (FPU) a Compliance Order incorporating the following remedial requirements to ensure the compliance of FPU with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to FPU's failure to meet the NFPA 58 (2004) regulator point of discharge distance requirements, FPU must survey all of its PHMSA regulated systems in the state of Florida, identify all locations that do not meet the NFPA standard, and take corrective actions to bring the identified locations into compliance with the distances specified in the NFPA 58 (2004) standard.
2. In regard to Item Number 7 of the Notice pertaining to FPU's failure to assure the proper concentration of odorant by conducting periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable, FPU must use an instrument to verify that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell. FPU must conduct the instrumented sampling at multiple locations within each system, including at the extremities of the systems and within dead legs, for all of its PHMSA regulated systems in the state of Florida where this sampling was not already conducted.
3. In regard to Item Number 8 of the Notice pertaining to FPU's failure to place line markers at all public road crossings in its Barefoot Bay, Lauderhill – East, and Lauderhill – West LPG distribution systems, FPU must survey all of its PHMSA regulated systems in the state of Florida, identify locations where buried mains cross public roads, and ensure that pipeline markers meeting the requirements of §192.707(d) are placed and maintained as close as practical over each buried main at each crossing of a public road.
4. In regard to Item Number 11 of the Notice pertaining to FPU's failure to inspect and test its pressure limiting and regulating stations at intervals not exceeding 15 months, but at least once each calendar year, FPU must survey all of its PHMSA regulated systems in the state of Florida, identify locations where its pressure limiting and regulating stations have not been inspected in the last 15 months, and must inspect and test its pressure limiting and regulating stations to ensure they meet the requirements of §192.739(a).
5. In regard to Item Number 12 of the Notice pertaining to FPU's failure to place telemetering or recording pressure gauges in its LPG distribution system supplied by more than one pressure regulating station, FPU must survey all of its PHMSA regulated systems in the state of Florida, identify locations where its LPG distribution systems are supplied by more than one pressure regulating station which do not have telemetering or recording pressure gauges installed, and install telemetering or recording pressure gauges.
6. In regard to Item Number 13 of the Notice pertaining to FPU's failure to determine the capacity of relief devices at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations, FPU must

survey all of its PHMSA regulated systems in the state of Florida and determine the capacity of all relief devices, by testing the devices in place or by review and calculations, ensuring they have sufficient capacity to protect the facilities to which they are connected.

7. FPU must complete the above items and prepare records to document the results within 90 days after the receipt of a Final Order.
8. Within 100 days following receipt of the Final Order, FPU must provide to the Director, Office of Pipeline Safety, PHMSA Southern Region written documentation confirming that Compliance Order Items have been completed.
9. Within 110 days following receipt of the Final Order, FPU must make the records and documentation showing the completion of all Compliance Order Items and make such records available for inspection by PHMSA representatives.
10. It is requested (not mandated) that FPU 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.