

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 22, 2010

Larry F. Clynch
TPM Incorporated
P.O. Box 486
Alpharetta, GA 30009-0486

CPF 2-2010-6007

Dear Mr. Clynch:

On October 19 - 21, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety inspected the TPM Incorporated (TPM) Lucy Woodstock anhydrous ammonia pipeline system in Memphis, Tennessee, pursuant to Chapter 601 of 49 United States Code.

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

1. **§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:**
 - (1) **Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.**
 - (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).

(ii) The name of the operator and a telephone number (including area code) where the operator can be reached at all times.

TPM failed to meet the regulations because the line markers along the pipeline system did not contain the name of the hazardous liquid transported.

During the field inspection of the 4-inch anhydrous ammonia pipeline, the PHMSA inspector observed that the line markers for the anhydrous ammonia pipeline stated "Petroleum" and did not correctly state the actual hazardous liquid being transported, i.e. anhydrous ammonia. This was true despite the fact that TPM had previously asked for PHMSA's permission to replace the words "anhydrous ammonia" with "chemical pipeline" and the request was denied by PHMSA.

TPM sent a letter to the PHMSA Southern Region on June 12, 2006. In the letter TPM stated, "The line [4-inch ammonia pipeline] is currently marked in accordance with API and OPS regulations..." TPM argued, however, that Homeland Security had advised them to remove the words "anhydrous ammonia" and replace them with the words "chemical pipeline."

PHMSA treated the TPM letter as a request for a special permit and undertook a thorough analysis of the request. On March 20, 2008, PHMSA sent a letter denying the special permit to TPM. That is, TPM's request to remove the words "anhydrous ammonia" from its pipeline markers was specifically denied in writing by PHMSA in March 2008. PHMSA's special permit denial letter referenced a *Special Permit Analysis and Findings* document, which contained nine findings explaining the reasons for the denial.¹

Subsequent to the denial letter and without informing PHMSA, TPM changed the wording on its pipeline markers and signs from "anhydrous ammonia" to "petroleum." Anhydrous ammonia is not petroleum or a petroleum product.

2. §195.420 Valve maintenance.

(c) Each operator shall provide protection for each valve from unauthorized operation and from vandalism.

TPM failed to meet the regulations because certain block valves on its 4-inch anhydrous ammonia pipeline were not protected from unauthorized operation or from vandalism.

¹ TPM's request letter, PHMSA's special permit denial letter, and the Special Permit Analysis and Findings document can be read in their entirety on the internet at www.Regulations.gov in the Federal Docket Management System (FDMS) Docket # PHMSA-2007-28019.

During the field inspection of the 4-inch anhydrous ammonia pipeline on October 19, 2010, the PHMSA inspector found that the block valve # 1 valve chain and the block valve # 4 gate lock were unsecured. The chain and gate lock had been positioned so as to appear to be locked, but upon testing by the inspector they were found to be unlocked.

3. **§195.583 What must I do to monitor atmospheric corrosion control?**
(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:
If the pipeline is located Onshore:
Then the frequency of inspection is at least once every 3 calendar years, but with intervals not exceeding 39 months
(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.
(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by Sec. 195.581.

TPM failed to meet the regulations because it did not provide adequate documentation to demonstrate that atmospheric corrosion surveys had been completed on all portions of the pipeline exposed to the atmosphere.

During the inspection of the anhydrous ammonia pipeline procedures and records, TPM was unable to provide adequate documentation for atmospheric corrosion surveys of above ground valves. While valve reports were provided, PHMSA found these reports to be inadequate for atmospheric corrosion survey documentation.

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 \$74,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$35,000
2	\$25,900
3	\$13,700

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 2-2010-6007** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*

cc: John R. Wasilik, Plant Manager, DuPont Plant, Memphis, TN