



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety Administration**

901 Locust Street, Suite 480
Kansas City, MO 64106

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

VIA ELECTRONIC MAIL TO: KLappinga@HollandTerminal.com and
JSorries@HollandTerminal.com

March 25, 2022

Kelly Lappinga
Facility Manager
Tanks R Us
630 Ottawa Avenue,
Holland, MI 49423

CPF 3-2022-024-NOPV

Dear Mr. Lappinga:

From May 27, 2020 through March 1, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected your Tanks R Us (TRU) pipeline facilities located in Michigan, near Niles. This inspection also reviewed associated plans, procedures, and records, located in Niles, Michigan.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 195.310 Records.

- (a) A record must be made of each pressure test required by this subpart, and the record of the latest test must be retained as long as the facility tested is in use.**

TRU failed to maintain a record of each pressure test required by subpart E of Part 195. Specifically, TRU failed to maintain hydrostatic test records for its above ground storage tank in

Niles, Michigan (Unit 85694) as per the requirements of § 195.310(a). The TRU Niles tank was constructed in 2001 to API 650, Appendix E and H, 10th Edition. At the time of inspection, Tanks R Us could not provide documentation of a pressure test for the tank located in Niles, Michigan.

2. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

TRU failed to conduct a review of their Operations and Maintenance (O&M) manual for the calendar year 2019, at intervals not to exceed 15 months, but at least once each calendar year. At the time of inspection, TRU could not provide documentation of an Operations and Maintenance manual review for the year 2019. Also, company personnel and assisting compliance contract personnel stated an O&M review for 2019 had not been completed at the time of inspection.

Warning Item

With respect to item 2 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 this items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Item 1, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Tanks R Us. Please refer to the *Proposed Compliance Order*, which is attached 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 Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2022-024-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs,
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

cc: Mr. Jeff Soerries, Operations Manager, Tanks R Us, JSoerries@HollandTerminal.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Tanks R Us (TRU) a Compliance Order incorporating the following remedial requirements to ensure the compliance of TRU with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to maintaining hydrostatic test records for its above ground storage tank in Niles, Michigan, Tanks R Us must plan, execute, document, and demonstrate DOT compliance with a pressure test for the Tanks R Us storage tank in Niles, Michigan to meet PHMSA documentation compliance within **730** days of receipt of the final order. TRU must also complete the following milestones for this Item:
 - At least **60** days prior to the test, TRU must submit plans including the requirements for testing a new tank to current DOT standards for documentation, testing, and filling and dewatering to the Director, PHMSA Central Region.
 - Within **90** days of test completion, TRU must provide complete record evidence demonstrating DOT compliance for this pressure test to the Director, PHMSA Central Region.
2. It is requested that Tanks R Us maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Gregory A. Ochs, Director, Central Region, Pipeline and Hazardous Materials Safety Administration, 901 Locust Street, Room 462, Kansas City, MO 64106. 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 costs associated with replacements, additions and other changes to pipeline infrastructure.