

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 19, 2018

Mr. Robert Rose
President
Idaho Pipeline Corporation
PO Box 35236
Sarasota, FL 34242

CPF 5-2018-6015

Dear Mr. Rose:

On September 5 through 8, and September 18 through 21, 2017, representatives 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 Boise Aviation Fuel Pipeline (BAFP) in Boise, Idaho.

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. **§194.7 Operation restrictions and interim operating authorization.**
 - (a) . . .
 - (b) **An operator must operate its onshore pipeline facilities in accordance with the applicable response plan.**

AND

§194.107 General response plan requirements.

- (a) . . .
- (c) **Each response plan must include:**
 - (1) **A core plan consisting of –**
 - (ix) **Drill program – an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.**

Idaho Pipeline Corporation's (IDPC) oil spill response plan states, "IDPC will follow the PREP guidelines."¹ IDPC failed to operate its onshore pipeline facility in accordance with its applicable response plan by failing to follow the PREP guidelines. Specifically, IDPC failed to satisfy the general response plan requirement of inclusion of a drill program that followed the National Preparedness for Response Exercise Program (PREP) guidelines, other than quarterly notification drills, in accordance with §194.107(c)(1)(ix).² An operator must follow Section 5 of the PREP for conducting drills and complying with the established frequency for each type of drill. This includes conducting Incident Management Team (IMT) exercises and Equipment Deployment drills consistent with the triennial cycle (annually).³ Further, Section 7 of IDPC's Facility Response Plan (FRP) also required that these drills be conducted on the triennial cycle and properly documented and filed for future reference (at least 3 years insuring availability to PHMSA).⁴

At the time of the inspection, it was noted that IDPC failed to perform an IMT exercise or equipment deployment exercise under Sections 5.2 and 5.3 of PREP, and Section 7 of its FRP

¹ Idaho Pipeline Corporation Facility Response Plan, Sequence number 1581, Section 6.

² IDPC also failed to have a drill program that is equivalent to PREP, as determined by OPS.

³ See PREP Section 5.2 (noting that IMT exercises should be conducted "as indicated in the response plan and, at a minimum, consistent with the triennial cycle (annually)"); see also PREP Section 5.3 (noting that equipment deployment drills should be conducted "as indicated in the response plan and, at a minimum, consistent with the triennial cycle (annually)").

⁴ See IDPC Facility Response Plan, Section 7 "Drill Procedures" at 7-1 (requiring that IMT exercises and equipment deployment drills be conducted yearly).

for the last triennial cycle.⁵ During the PHMSA inspection, IDPC failed to provide any documentation to indicate that it completed the drills in the required triennial cycle.

2. §194.107 General response plan requirements.

(a) . . .

(c) Each response plan must include:

(1) A core plan consisting of –

(viii) Equipment testing.

IDPC failed to perform equipment testing in accordance with §194.107(c)(1)(viii). At the time of the inspection, IDPC had response equipment at its terminal; however, IDPC was not able to provide any documentation to evidence that it, or the Oil Spill Response Organization (OSRO)⁶ had performed testing of this emergency response equipment.

3. §195.402 Procedural manual for operations, maintenance, and emergencies.

(a) . . .

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) . . .

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

IDPC failed to prepare and follow a written procedure for operating, maintaining and repairing the pipeline in accordance with Subpart F by failing to have a procedure for establishing maximum operating pressure (MOP) in accordance with §195.406. At the time of the inspection, IDPC's Operations and Maintenance Manual failed to provide a written procedure for establishing maximum operating pressures for its eight (8) and four (4) inch pipelines in accordance with §195.406.

4. §195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

(1) . . .

(3) The maximum operating pressure of each pipeline.

IDPC failed to maintain current records of its pipeline system to include the maximum operating pressure (MOP) in accordance with §195.404(a)(3). At the time of the inspection, IDPC could not produce any records or calculations which were used to establish the maximum operating pressures of both the eight (8) and four (4) inch pipelines. During the

⁵ In June 2017, PHMSA issued a Warning Letter, CPF 5-2017-6019W, to IDPC for failure to perform drills pursuant to Section 7 of its Drill Procedures.

⁶ IDPC's FRP at 4-6.

inspection, interviews with IDPC's Terminal Manager revealed that the design engineer for the 8- and 4-inch pipelines passed away many years earlier and IDPC failed to obtain any records and calculations for establishing MOP on these lines.

5. §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).

IDPC failed to properly develop and implement a written continuing public education program that follows the guidance provided in API RP 1162 in accordance with §195.440(a). At the time of the inspection, it was noted that although a Public Awareness Program had been established, the program failed to include the following API RP 1162 guidance:

- API RP Section 2.5 - No statement of management's support could be found in the Public Awareness Program.
- API RP Section 1.2 - The program fails to clearly identify the specific pipeline systems and facilities to be included in the program, along with the unique attributes and characteristics of each. The program does mention that the pipeline transports aviation jet fuel but does not mention the breakout tanks or other attributes located at the Gowen Road Facility in accordance with §195.440(b).
- API RP Section 3 - The operator's program has failed to identify all the stakeholder audiences included in the "Affected Public". The operator has not identified three (3) businesses near their facilities. These businesses have been in operation for multiple years. The operator's program states, *"Section 3.8.1 - The public affected in areas where we operate - page 9, "When identifying the affected public, IDPC personnel will take a common sense approach. Since the majority of the pipeline is in an unpopulated area, any business or residence within a 300 foot radius and in sight of the line will be identified as affected public."*
- API RP Section 3.10 - The stakeholder audiences, message type, frequency, and delivery methods. The section states that Chapter 5 lists the specified media and frequency for each target audience. However, there is no Chapter 5 found in the program, and no defined messages, delivery methods, or delivery frequencies are found in the program. Additionally, no "other relevant factors" or discussions regarding consideration of relevant factors were found in the program in accordance with §195.440(c).

- API RP Section 7 - Documentation of annual program review, performed by the Terminal Manager, is vague and the information contained is incomplete.
- API RP Section 8.2 - While contact with excavators is tracked, effectiveness review with all other stakeholder audiences is not.
- API RP Section 2.3 - During the records inspection of IDPC's public awareness program, IDPC does not have a process for identifying whether other languages are required. In discussion with the Terminal Manager, it was stated that in his experience all stakeholder audiences spoke English. Without a process in place, there is no way to determine if other languages must be addressed by the public awareness program in accordance with §195.440(g).
- API RP Section 8.4 - The program does not specify how self-assessments and effectiveness evaluations will be conducted. The program does not state the frequency for evaluations other than to say it will periodically measure the effectiveness in accordance with §195.440(i).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists, up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a 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 \$49,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$49,000

Proposed Compliance Order

With respect to Items 1 through 5, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Idaho Pipeline Corporation. 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).

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 5-2018-6015** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Kim West
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

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

cc: PHP-60 Compliance Registry
PHP-500 D. Fehling/C. Carroll (#155754)

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to Idaho Pipeline Corporation's (IDPC) failure to conduct Incident Management Team (IMT) exercises and equipment deployment exercises within the required intervals under PREP in accordance with §194.107(c)(1)(ix), IDPC must perform a IMT (tabletop exercise) and field equipment deployment exercise, and provide the records to PHMSA's Western Region Director (Director) to verify that the drills have been performed within 60 days of receipt of the Final Order.
2. In regard to Item Number 2 of the Notice pertaining to IDPC's failure to test emergency response equipment stored at the Boise Terminal, IDPC must properly test the equipment and provide the testing results to the Director to verify the testing occurred within 60 days of receipt of the Final Order.
3. In regard to Item Number 3 of the Notice pertaining to IDPC's failure to prepare and follow a written procedure for establishing maximum operating pressure (MOP) in accordance with §195.406, IDPC must develop a written procedure to establish MOP, and provide the procedure to the Director for review and approval within 60 days of receipt of the Final Order.
4. In regard to Item Number 4 of the Notice pertaining to IDPC's failure to maintain records and calculations in accordance with §195.404(a)(3), IDPC must provide records to the Director to verify how it had previously established the MOP of its pipeline system. If the process by which the MOP was established is unknown, it must re-establish the MOP of the pipelines (both the 8" and 4" lines) in accordance with Part 195, and provide the records to the Director within 60 days of receipt of the Final Order.
5. In regard to Item Number 5 of the Notice pertaining to IDPC's failure to properly develop and implement a written continuing public education program that follows the guidance provided in API RP 1162, IDPC must develop and implement a written Public Awareness Program that follows API RP 1162, including addressing all the identified deficiencies set forth in Item 5 of the Notice, and provide the written program to the Director within 60 days of receipt of the Final Order.
6. It is requested (not mandated) that Idaho Pipeline Corporation maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Kim West, Director, Western 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.