

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

VIA ELECTRONIC MAIL TO: stan.horton@bwpipelines.com; tina.baker@bwpipelines.com

August 11, 2023

Mr. Stanley Horton
President/CEO
Boardwalk Petrochemical Pipeline, LLC
9 Greenway Plaza Suite 2800
Houston, TX 77036

CPF 3-2023-020-NOPV

Dear Mr. Horton:

From April 4 to July 29, 2022, 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 facilities and records of your Boardwalk Petrochemical Pipeline, LLC (BPP), ethylene pipeline system in Louisiana and Texas.

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

- 1. § 195.402 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.

Boardwalk Petrochemical Pipeline (BPP) failed to follow its written procedures for pipeline repair. BPP's O&M Appendix (App) G – Table 3-2 prescribes repair options for pipeline defects, and allows repair with a composite sleeve when “damaged material has been removed by grinding and removal has been verified by inspection.” From a review of the maintenance records for calendar year 2020, PHMSA found that BPP performed a repair on the Highway 13 to Port Barre segment of its BPP-100 pipeline by installing a composite sleeve over gouge containing a stress concentrator without grinding the defect down to sound metal. Therefore, BPP failed to follow its written procedures and is in violation of § 195.402(a).

2. § 195.440 Public awareness.

(a)

(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities.

BPP failed to assess the unique attributes and characteristics of its BPP-100 pipeline when identifying the stakeholder audience. Specifically, BPP's August 2015 plume analysis identifies the PIR for BPP-100 pipeline to be 2,030 feet on either side of the pipeline based on ethylene. However, BPP's public education program communications were applied within a coverage area 1,100 feet on each side of the pipeline established by the largest potential impact radius (PIR) resulting from a natural gas rupture. As a result, BPP failed to identify additional stakeholders for at least two biennial communication cycles prior to the 2022 PHMSA inspection. Therefore, BPP failed to consider the unique attributes and characteristics when identifying the stakeholder audience along the entire 176 mile pipeline.

During the inspection, BPP amended its public awareness procedures and delivered the applicable pipeline information content (mailers) to the newly identified stakeholders.

3. § 195.452 Pipeline integrity management in high consequence areas.

(a)

(d) *When must operators complete baseline assessments?*

(1)

(2) *Newly identified areas.* If an operator obtains information (whether from the information analysis required under paragraph (g) of this section, Census Bureau maps, or any other source) demonstrating that the area around a pipeline segment has changed to meet the definition of a high consequence area (see § 195.450), that area must be incorporated into the operator's baseline assessment plan within 1 year from the date that the information is obtained. An operator must complete the

baseline assessment of any pipeline segment that could affect a newly identified high consequence area within 5 years from the date an operator identifies the area.

BPP failed to identify areas of population that meet the definition of a high consequence area (HCA) and incorporate the pipeline segments into its integrity management baseline assessment plan. BPP did not utilize available information from its geographic information systems (GIS) as well as other sources including aerial observation from its pipeline patrols, and did not adequately perform an information analysis that included the populated locations shown below as being High Consequence Areas. Using aerial imagery confirmed by field observations, as well as publicly available information, PHMSA identified the populous areas listed in the table below as meeting the definition of a HCA. PHMSA found that the age of the structures indicated that they had been in existence for several years, and that the structures were within the potential impact radius of the BPP-100 pipeline. A release of ethylene in these populous areas poses a significant threat to the public. By failing to incorporate these areas as newly identified HCAs subject to integrity assessment, BPP is in violation of § 195.452(d)(2).

Name of Location	Approximate Structure Counts as of 2018	Approximate Length of HCA (ft)	Approximate Initial Construction Year
Shawnee Farms Rd southwest of Opelousas, LA	50	1,400	2006
CBS Mobile Home Park and Grant Place southeast of Opelousas, LA	270	2,900	2009
Three Mile Lake, LA	150	10,000	2010
Lottie, LA	(population 450)	2,000	Unincorporated Town
Calumet Estates in Port Allen, LA	25	2,800	2007

4. § 195.452 Pipeline integrity management in high consequence areas.

(a)...

Effective December 1, 2000; 195.452 (j)(2) requires:

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(1)....

(2)Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in

paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

Effective December 1, 2000; 195.452 (j)(2) requires:

(a)

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*

(1)

(2) *Verifying covered segments.* An operator must verify the risk factors used in identifying pipeline segments that could affect a high consequence area on at least an annual basis not to exceed 15 months (Appendix C of this part provides additional guidance on factors that can influence whether a pipeline segment could affect a high consequence area). If a change in circumstance indicates that the prior consideration of a risk factor is no longer valid or that an operator should consider new risk factors, an operator must perform a new integrity analysis and evaluation to establish the endpoints of any previously identified covered segments. The integrity analysis and evaluation must include consideration of the results of any baseline and periodic integrity assessments (see paragraphs (b), (c), (d), and (e) of this section), information analyses (see paragraph (g) of this section), and decisions about remediation and preventive and mitigative actions (see paragraphs (h) and (i) of this section). An operator must complete the first annual verification under this paragraph no later than July 1, 2021.

BPP failed to complete its annual verification of two covered segments. From a review of integrity records, PHMSA identified during the inspection that BPP failed to conduct an information analysis on its Enterprise/Motiva-BPP-FAB-168 and Anchorage-BPP-FAB-160 facilities since BPP purchased the pipeline in November 2014. BPP first identified these facilities as located within a high consequence area (HCA) in January 2016, but had not incorporated them into its integrity management program as covered segments. Additionally, BPP performed an initial but incomplete information analysis on these segments in May 2022. By failing to verify these segments as covered under its integrity management program for calendar years 2018 through 2022, BPP is in violation of § 195.452(j)(2).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before

May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$152,900 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$ 20,800
3	\$ 75,500
4	\$ 56,600

Proposed Compliance Order

With respect to items 1, 3, and 4, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Boardwalk Petrochemical Pipeline, LLC. 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 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 3-2023-020-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

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

cc: Tina Baker, Manager Compliance Service, tina.baker@bwpipelines.com

PROPOSED COMPLIANCE ORDER

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

- A. In regard to Item Number 1 of the Notice pertaining to failing to follow applicable procedures when installing a composite sleeve over a gouge containing a stress concentrator, Boardwalk Petrochemical Pipeline, LLC must submit a plan, including a timeline, to appropriately repair the condition within **90** days of receipt of the Final Order.
- B. In regard to Item Number 3 of the Notice pertaining to failing to identify HCAs, Boardwalk Petrochemical Pipeline, LLC must incorporate the locations listed in the violation into its Baseline assessment plan within **60** days of receipt of the Final Order.
- C. In regard to Item Number 4 of the Notice pertaining to failing to complete its annual verification, Boardwalk Petrochemical Pipeline, LLC must:
 - i. Amend its Integrity Management Program to include the requirements of 49 CFR 195.452, effective as of July 1, 2020, within **60** days of receipt of the Final Order.
 - ii. Complete the requirements of 49 CFR 195.452(j) for the facilities listed in the violation within **180** days of receipt of the Final Order.
- D. It is requested that Boardwalk Petrochemical Pipeline, LLC 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. 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.