



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

8701 S. Gessner, Suite 630
Houston TX 77074

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

November 2, 2021

Richard Keyser
Senior Vice President of Operations
Gulf South Pipeline Company, LLC
9 Greenway Plaza, Suite 2800
Houston, Texas 77046

CPF 4-2021-015-NOPV

Dear Mr. Keyser:

From November 20, 2019 to October 25, 2020, 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 Gulf South Pipeline Company, LLC's (Gulf South) newly constructed Willis Lateral Pipeline traversing from San Jacinto County to Montgomery County, Texas.

As a result of the inspection, it is alleged that Gulf South 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. § 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 one 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.

Gulf South failed to follow its *Boardwalk Pipelines, Operations and Maintenance Manual: Natural Gas, Pipeline Operations, Section 2180-Prevention of Accidental Ignition (Effective Date 12/20/2019; Revision Date 7/20/2020)* at its facilities and as required by § 192.605(a). Specifically, Gulf South failed to follow the operation and maintenance procedure related to fire extinguishers as required by § 192.751. Section 2180 states:

“Boardwalk shall take steps to prevent accidental ignition in areas where the presence of gas constitutes a fire hazard or a potential explosion.

The Policy will consider:

- Removal of potential ignition sources when hazardous amounts of gas are present. Safety equipment such as a **fire extinguisher must be provided.**
- Boardwalk shall not perform gas or electric welding or cutting when a combustible mixture of gas and air is present in the work area.
- When appropriate, Boardwalk will post warning signs.”

On July 9, 2020, during OPS’ field inspection of the newly commissioned (May 19, 2020) pipeline system, OPS inspectors found that Gulf South did not provide for any fire extinguishers at the Willis Lateral Origination Station and Willis Lateral Termination Station. During a follow up on July 15, 2020, OPS inspectors found that Gulf South had provided the first extinguishers.

2. § 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 one 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.

Gulf South failed to follow its *Boardwalk Pipelines, Operations and Maintenance Manual: Natural Gas, Pipeline Operations, Section 2180-Prevention of Accidental Ignition (Effective Date 12/20/2019; Revision Date 7/20/2020)* at its facilities and as required by § 192.605(a). Specifically, Gulf South failed to follow the operation and maintenance procedure related to warning signage in accordance with § 192.751. Section 2180 states:

“Boardwalk shall take steps to prevent accidental ignition in areas where the presence of gas constitutes a fire hazard or a potential explosion.

The Policy will consider:

- Removal of potential ignition sources when hazardous amounts of gas are present. Safety equipment such as a fire extinguisher must be provided.

- Boardwalk shall not perform gas or electric welding or cutting when a combustible mixture of gas and air is present in the work area.
- When appropriate, Boardwalk **will post warning signs.**”

During the OPS field inspection performed on July 9, 2020, of the newly commissioned (May 19, 2020) pipeline system, OPS inspectors found insufficient warning signs at the Willis Lateral Origination Station and Willis Lateral Termination Station. A follow up inspection was conducted by OPS on July 15, 2020, which found that the proper warning signs were in place.

3. § 192.179 Transmission line valves.

(a) ...

(b) **Each sectionalizing block valve on a transmission line, other than offshore segments, must comply with the following:**

(1) The valve and the operating device to open or close the valve must be readily accessible and protected from tampering and damage.

Gulf South failed to protect valves from tampering and damage in accordance with § 192.179, at two separate valve site locations, the Willis Lateral Line Origination Station and the Willis Lateral Line Terminus Station. During a field inspection on July 9, 2020, PHMSA found that the main gate to the Willis Lateral Line Origination Station did not have locks, which allowed the valves inside to be unsecured for unauthorized access, allowing for potential tampering and damage. That same day, Gulf South personnel provided a lock for the main gate upon completion of the inspection.

On August 8, 2020, during a follow-up inspection at the Willis Lateral Line Terminus Station, PHMSA identified an “emergency valve” that was accessible by a sizeable opening in the fencing surrounding the interconnect pipeline area, creating a higher susceptibility to unauthorized entry into the station for tampering and damage of the valve. Gulf South did not repair the inadequate fencing until October 14, 2020, 67 days after the issue was identified.

4. § 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) ...

(b) **Ensure through evaluation that individuals performing covered tasks are qualified;**

Gulf South failed to ensure through evaluation that individuals performing a covered task on its pipeline were qualified per *Boardwalk Pipelines, Operator Qualification Program (Version 5.50, Effective Date 4/1/2020)* (OQ Plan) as required by § 192.805.

Gulf South failed to ensure that Entergy Texas, Inc. (Entergy)'s, a foreign pipeline operator, third-party contractor, McDermott International, Ltd (McDermott), was qualified when performing the covered task of making an interconnection between Gulf South's Willis Lateral Pipeline and Entergy's Montgomery County Power Station's gas supply line in Montgomery County, Texas on August 4, 2020. Making an interconnection is a covered task identified under the Gulf South's OQ Plan, Boardwalk Pipeline Internal Covered Task List, "Task ID 2150P-Joining of Metal Pipe and Components by means other than Welding-Flanged Connections." Numerous exchanges between Gulf South and OPS during the inspection revealed that Gulf South personnel failed to recognize that McDermott's personnel performing the interconnection on Gulf South's pipeline were required to be qualified not only per § 192.805 but also within Gulf South's own written OQ Plan.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violations 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 violations 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 violations 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 \$38,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
4	\$38,000

Proposed Compliance Order

With respect to Items 3 and 4, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Gulf South Pipeline Company, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Items 1 and 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 these items, if you have not already done so. Failure to do so may result in additional enforcement action.

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 4-2021-015-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

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

- A. In regards to Item 3 of the Notice pertaining to Gulf South's failure to protect valves from tampering and damage in accordance with § 192.179, it must amend its operation and maintenance manual to include procedures to address the requirements in § 192.179 within 60 days of receipt of the Final Order.

- B. In regards to Item 4 of the Notice pertaining to Gulf South's failure to ensure through evaluation that individuals performing a covered task on its pipeline were qualified per its Operator Qualification (OQ) program as required by § 192.805, Gulf South must review and amend its procedures as necessary to require any third-party entity or its contractors to meet the OQ requirements of its OQ program when performing an interconnection or any other covered task on the its pipeline within 60 days of receipt of the Final Order.

- C. Gulf South must submit all documentation relating to compliance of the items A and B of this Final Order to Mary L. McDaniel, P.E., Director, Southwest, Pipeline and Hazardous Materials Safety Administration, within 60 days of receipt of the Final Order.

It is requested (not mandated) that Gulf South maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, P.E., Director, Southwest, 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.