

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

OVERNIGHT EXPRESS DELIVERY

April 20, 2018

Anthony Scaraggi
Vice President of Operations
Distrigas of Massachusetts LLC
18 Rover Street
Everett, MA 02149

CPF 1-2018-3004

Dear Mr. Scaraggi:

From July 17 – 21, 2017, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Distrigas of Massachusetts LLC's (Distrigas) Everett Marine Terminal in Everett, Massachusetts.

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

1. § 193.2605 Maintenance Procedures.

(b) Each operator shall follow one or more manuals of written procedures for the maintenance of each component, including any required corrosion control. The procedure must include:

(1) The details of the inspections or tests determined under paragraph (a) of this section and their frequency of performance; and

Distrigas failed to follow its manual of written operating procedures for emergency shutdown (ESD) control systems. Specifically, Distrigas failed to follow its Everett Maine Terminal Maintenance Procedure Manual, Process Control System, Loop Testing, dated 11/17/16

(Procedure), by failing to perform an annual inspection of its ESD control systems that includes all elements of the control system.

During the inspection, the PHMSA inspector reviewed Distrigas' Procedure and ESD control system inspection and testing records for the 2014 through 2017 timeframe (Records).

The Procedure stated in part, "Perform annual inspection & calibration of all process control systems, automatic shutdown devices & automatic shutdown systems by using required measurable sources. All process transmitters, recorders, controllers, transducers, indicators, switches & logic are to be included. A written record of these inspections & calibrations is required..."

The Records reviewed did not demonstrate an annual inspection and calibration of all process controls systems, automatic shutdown devices and automatic shutdown systems, as required by the Procedure. The Records provided contained Test Sheet Instructions for each separate ESD system, stating the number of tests possible based on the count of initiating push-buttons available. Each instruction stated in part "Not all X (quantity of push buttons) tests need to be performed at once but each successive test must choose the next pushbutton in the list below." These instructions are not clear on when successive tests are to occur, and conflict with the requirements of the Procedure to include all control system components in the annual testing. The Records also indicate that other ESD systems can be initiating elements for a given ESD system.

Based on the Records, Distrigas failed to perform an annual inspection of the following ESD system initiating elements for the 2014 through 2017 timeframe:

- 2014: 30
- 2015: 25
- 2016: 38
- 2017: 38

During the inspection, the PHMSA inspector requested the missing ESD testing records and Distrigas was unable to provide any documentation that demonstrated that the missing ESD initiating devices were included in the annual inspection and calibration required by its procedure.

Therefore, Distrigas failed to follow its manual of written operating procedures for ESD inspection and calibration, as required by § 193.2605.

Proposed Compliance Order

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. Also, for LNG facilities, an additional penalty of not more than \$76,352 for each violation may be imposed.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to item number 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Distrigas of Massachusetts 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 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).

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.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628. Please refer to **CPF 1-2018-3004** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Distrigas of Massachusetts LLC (Distrigas) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Distrigas with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Distrigas' failure to include control system elements in the annual emergency shutdown system testing, Distrigas shall revise its procedures to address the inconsistencies between the written procedure, the process described in the instructions on its individual ESD testing records, and the implementation of these processes.
2. Distrigas shall submit the procedures required in Item 1 above to PHMSA for review and approval. These revised procedures shall be submitted within 60 days of issuance of the Final Order.
3. It is requested (not mandated) that Distrigas maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough, Director, Eastern 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.