

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

In the Matter of)	
)	
Distrigas of Massachusetts LLC)	CPF No. 1-2018-3004
)	Notice of Probable Violation and
Respondent.)	Proposed Compliance Order
)	STATEMENT OF ISSUES

Pursuant to Chapter 601 of 49 United States Code, Distrigas of Massachusetts, LLC (Distrigas) was inspected by a Pipeline and Hazardous Materials Safety Administration (PHMSA) representative from July 17-21, 2017. The PHMSA inspection identified areas it perceived inadequate regarding Distrigas' maintenance procedures related to Emergency Shutdown (ESD) testing. PHMSA issued a Notice of Probable Violation and Proposed Compliance Order (NOPV and PCO) dated April 20, 2018 to specifically address ESD control system testing.

Distrigas believes the ESD control loops were properly tested and cannot consent to the NOPV and PCO as it stands. PHMSA's interpretation, of Distrigas' Control System Loop testing procedure does not adequately depict Distrigas' intent/interpretation concerning ESD loop testing. Additionally, PHMSA's interpretation of Distrigas' procedure requirements relating to ESD testing would add unnecessary complexity to maintenance procedures testing, documenting and the possibility of negatively impacting the facility. Distrigas does not believe PHMSA intends such and believes open discussions would lead PHMSA to similar conclusions. The request for a hearing will enable those discussions without waiving Distrigas rights.

There appears, on the surface, to be a mechanism to contest and provide explanatory information that would enable an operator to have a discussion with PHMSA in accordance with the spirit of the NOPV and PCO while not meeting its requirements verbatim.^{1 2} If a mechanism exists to postpone a hearing for an agreeable time

¹. This option is explained in *Response to Pipeline Operators in Enforcement Proceedings* Paragraph I a. which states:

“If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, including the effect of the proposed civil penalty on your ability to continue in business, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order.

². This option is explained in *Response to Pipeline Operators in Enforcement Proceedings* Paragraph I b. which states:

“If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order”

It has been our experience that PHMSA (within their rights and as a result of an operators not requesting a hearing) routinely issues an Order Directing Amendment after initial correspondence preempting further fact finding and discussion.

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period (60 days) to allow Distrigas and PHMSA to discuss the issues without waiving rights to a hearing, we welcome that option.

NOPV and PCO Items:

1. § 193.2605(b) 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 inspection or tests determined under paragraph (a) of this section and their frequency of performance; and

The NOPV and POC, issued by PHMSA, addresses Distrigas' procedure for emergency shutdown (ESD) control systems. Specifically, the NOPV and PCO states, Distrigas failed to follow its Everett Marine 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' Loop Testing Procedure. 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 inspector indicated that 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." The inspector indicated that 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, the NOPV and PCO stated that 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

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

Statement of Issue Regarding NOPV and PCO Item 1:

With respect to ESD Control System Testing:

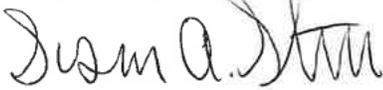
- 49 CFR 193.2605(b) does not give exhaustive prescriptive requirements for procedures. It is uncontested that 49 CFR 193.2605(b) details what must be tested and to what inspection frequencies must be followed; however, PHMSA gives operators the discretion to determine the details of procedures. Distrigas has repeatedly asked PHMSA inspectors if they expect to see word for word regurgitation of the regulations and have been told to make the procedures specific to our needs as long as we can show we are compliant with the regulated aspects of 49 CFR 193.
- The NOPV AND PCO indicates that Distrigas did not follow its procedure for ESD testing, contending that all ESD initiating elements (push buttons) need to be pushed to properly test Distrigas' ESD control systems. Distrigas respectfully disagrees with PHMSA interpretation.
- Distrigas' ESD control system incorporates a plant-wide ESD shut down, activating all components in the ESD loop that are not normally operating. In addition, however not needed to meet the code requirement, Distrigas, per its ESD test sheets, also redundantly tests all the individual area shut down loops even though they are tested during the plant-wide ESD loop test.
- Contrary to ESD loops the activation (push buttons) devices are always operational and in service and are not part of the ESD test loop.
- In accordance with 49 CFR 193.2619(d), Distrigas annually activates the plant-wide ESD shut down loop which in turn activates every individual area ESD shut-down loop in the plant.

Distrigas wishes to comply with the requirements of ESD loop testing but sees no way to do so without clarification as to the requirements of initiating elements.

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At the hearing in this matter, Distrigas intends to bring forth evidence in the form of documents and/or witness testimony, as well as to present its arguments, in support of the issues stated hear in. Distrigas reserves the rights to supplement this Statement of Issues at or before the hearing.

Respectfully Submitted,



Susan A. Stritter
Regulatory Compliance Manger
On behalf of Distrigas of Massachusetts LLC

Dated: 5-17-2018

CC: Robert Wilson, Chief Executive Officer
Jason Austin, VP and General Counsel
Anthony Scaraggi, VP of Operations