

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 25, 2019

Jeffrey W. Gifford
Vice President, HSSE
Genesis Pipeline USA, LP
919 Milam Street
Houston TX 77002

CPF 2-2019-5001

Dear Mr. Gifford:

From February 26 to June 8, 2018, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Genesis Pipeline USA, L.P. in Alabama, Florida, Mississippi and Genesis Pipeline Alabama, LLC in Alabama (Genesis).

As a result of the inspection, it is alleged that Genesis 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. §195.452 Pipeline integrity management in high consequence areas.

(a) ...

(f) *What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:*

(1) A process for identifying which pipeline segments could affect a high consequence area:

Genesis failed to comply with the regulation because its Integrity Management (IM) Program did not include a process for identifying which pipeline segments could affect a high consequence area (HCA). Specifically, Genesis' IM program did not include a process for identifying facilities other than line pipe on its pipeline system that could affect a HCA.

Genesis Procedure 101L, titled "Procedure For Identifying HCAs and HCA Segments," dated February 15, 2018, governs Genesis' process for identifying pipeline segments that could affect HCAs. At the time of PHMSA's inspection, Sub-Section 1.2.6 of Genesis Procedure 101L, titled "Pipeline Facilities," stated the following:

"Pipeline pump stations and other types of facilities are considered to have the same impact on HCAs as the pipeline going into or out of the facility."

Genesis IM Process 100, titled "Asset and HCA Segment Identification Process" governs Genesis's process for identifying assets and pipeline segments for integrity management that could affect an HCA. At the time of PHMSA's inspection, Sub-Section 1.2.2 of Genesis IM Process 100, titled "Facilities," stated only "Forthcoming."

2. §195.452 Pipeline integrity management in high consequence areas.

(a) ...

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) *General requirements. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protections. Such actions may include, but are limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detects leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.*

Genesis failed to meet the regulation because it did not take measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA. Specifically, Genesis did not identify preventive and mitigative measures (P&MMs) for facilities other than line pipe on its pipeline system that could affect an HCA.

Genesis Procedure 101L, titled "Procedure For Identifying HCAs and HCA Segments," dated February 15, 2018, governs Genesis' process for identifying pipeline segments that could affect HCAs. At the time of PHMSA's inspection, Sub-Section 1.2.6 of Procedure 101L, titled "Pipeline Facilities," stated the following:

“Pipeline pump stations and other types of facilities are considered to have the same impact on HCAs as the pipeline going into or out of the facility.”

Genesis IM Process 600, titled “Determining Preventive & Mitigative Measures Process,” governs Genesis’ processes for identifying P&MMs relevant to each pipeline segment that could affect an HCA. At the time of PHMSA’s inspection, Sub-Section 6.2 of Genesis IM Process 600, titled “Facilities,” stated only “Forthcoming.”

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

(a) ...

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) ...

(2) **Risk analysis criteria.** In identifying the need for additional preventive and mitigative measures, an operator must evaluate the likelihood of a pipeline release occurring and how a release could affect the high consequence area. This determination must consider all relevant risk factors, including, but not limited to:

(i) Terrain surrounding the pipeline segment, including drainage systems such as small streams and other smaller waterways that could act as a conduit to the high consequence area;

(ii) Elevation profile;

(iii) Characteristics of the product transported;

(iv) Amount of product that could be released;

(v) Possibility of a spillage in a farm field following the drain tile into a waterway;

(vi) Ditches along side a roadway the pipeline crosses;

(vii) Physical support of the pipeline segment such as by a cable suspension bridge;

(viii) Exposure of the pipeline to operating pressure exceeding established maximum operating pressure.

Genesis failed to comply with the regulation because it did not perform a risk analysis evaluating the likelihood of a pipeline release occurring and how a release could affect the high consequence area. Specifically, Genesis did not include pipeline facilities other than line pipe in its risk analysis.

Genesis IM Process 200, titled “Risk Analysis Process,” prescribes actions required to comply with the above-referenced regulation. At the time of PHMSA’s inspection, Sub-Section 2.7 of Genesis IM Process 200, titled “Facilities,” stated only “Forthcoming.”

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

(a) ...

(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).

Genesis failed to comply with the regulation because it did not conduct periodic evaluations as frequently as needed to assure pipeline integrity. Specifically, Genesis personnel were unable to produce any record or documentation that pipeline facilities other than line pipe had ever been evaluated to assure their integrity.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. 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. 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.

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 Items 1, 2, 3, and 4 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Genesis Pipeline USA LP. 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.

In your correspondence on this matter, please refer to **CPF 2-2019-5001** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

James A. Urisko
Director, Southern
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 Genesis Pipeline USA, L.P. and Genesis Pipeline Alabama, LLC (Genesis) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Genesis with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to Genesis' failure to identify facilities other than line pipe on its pipeline system that could affect a high consequence area (HCA), Genesis must:
 - a. Develop procedures for identifying facilities other than line pipe on its pipeline system for inclusion in its Integrity Management (IM) program.
 - b. Submit procedures developed in accordance with 1a. to the Director, Office of Pipeline Safety (OPS), PHMSA Southern Region for approval.
 - c. Identify all facilities that could affect an HCA in accordance with the approved procedures. Genesis must maintain records and documentation of the results, and make those records available for OPS inspection.
2. In regard to Items 2, 3 and 4 of the Notice pertaining to Genesis's failure to identify preventative and mitigative measures (P&MMs), perform risk analysis and conduct periodic evaluations for facilities other than line pipe on its pipeline system that could affect an HCA, Genesis must:
 - a. Develop procedures for identifying P&MMs for facilities other than line pipe on its pipeline system that could affect an HCA for inclusion in its IM program.
 - b. Develop risk analysis procedures for facilities other than line pipe for inclusion in its IM program
 - c. Develop procedures to conduct periodic evaluations of pipeline facilities other than line pipe on its pipeline system that could affect an HCA for inclusion in its IM program
 - d. Submit procedures developed in accordance with 2a., 2b., and 2c. to the Director, Office of Pipeline Safety, PHMSA Southern Region for approval.
 - e. Identify P&MMs, perform risk analysis, and conduct evaluations of facilities other than line pipe on its pipeline system that could affect an HCA, in accordance with the approved procedures. Genesis must maintain all records and documentation of the results, and make those records available for OPS inspection.
3. Genesis must complete the above items within the following time requirements:
 - a. Within 30 days of receipt of the Final Order Genesis must complete the requirements of Items 1a., 2a., 2b., and 2c. above.
 - b. Within 90 days of receipt of the Final Order Genesis must complete the requirements of Items 1b. and 2d. above.
 - c. Within 150 days of receipt of the Final Order Genesis must provide written

documentation summarizing the results of Items 1c. and 2e. above to the Director, Office of Pipeline Safety, PHMSA Southern Region for approval.

4. It is requested (not mandated) that Genesis maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Southern 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.