

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 4, 2020

Rodney Dykes
Chief Operating Officer
Cox Operating, LLC
1615 Poydras St., Suite 830
New Orleans, Louisiana 70112

CPF 4-2020-7003

Dear Mr. Dykes:

From March 18 to October 3, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your offshore hazardous liquid pipelines in Louisiana and the Gulf of Mexico. At the time of the inspection these assets were operated by Energy XXI Pipeline, LLC (Operator ID 32532). Cox Operating, LLC, purchased Energy XXI Pipeline, LLC, on October 18, 2018. Energy XXI Pipeline, LLC, continued to operate the facilities as a wholly owned subsidiary until August 20, 2019, when Cox Operating, LLC, took over operation.

As a result of the inspection, it is alleged that you have 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.

**(e) *Emergencies.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety when an emergency condition occurs:
(9) Providing for a post-accident review of employee activities to determine whether the procedures were effective in each emergency and taking corrective action where deficiencies are found.**

Energy XXI Pipeline, LLC, (Energy XXI) failed to conduct a post-accident review of employee activities to determine whether its written procedures were effective following an accident that occurred on October 14, 2017.

Energy XXI personnel provided PHMSA with its accident report from an accident that occurred following Hurricane Nate on October 14, 2017. The post-accident review sections had not been completed except for notes to reference a report from a contractor that worked for Energy XXI. The contractor's report also did not contain a post-accident review and Energy XXI personnel could provide no other evidence that a review had been conducted.

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

(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;

Energy XXI failed to properly identify all pipeline segments that could affect a high consequence area (HCA).

Energy XXI's written Integrity Management Plan entitled *Pipeline Integrity Management Plan* contains a process for identifying offshore segments that could affect an HCA via water transport analysis, but the process fails to consider releases which occur in the waters between the coastline and the Outer Continental Shelf. Energy XXI provided PHMSA with current HCA maps of its pipeline segments which showed that no HCA segments were identified in these areas and Energy XXI personnel could not provide evidence that these areas had been considered.

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

(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:

(6) Identification of preventive and mitigative measures to protect the high consequence area (see paragraph (i) of this section);

Energy XXI failed to identify preventive and mitigative measures to protect its pipeline segments that could affect high consequence areas.

Energy XXI personnel were unable to provide PHMSA with records of risk evaluations or necessary preventive and mitigative measures on requested pipeline segments. A risk evaluation record was only located for one segment, but the form was incomplete and not signed by the manager as required.

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

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

(1) *General.* After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

Energy XXI failed to assess the line pipe on its South Timbalier 63A to Fourchon segment at specified intervals in accordance with its integrity management plan.

Energy XXI set an assessment deadline of July 4, 2017 for its South Timbalier 63A to Fourchon segment in accordance with its written Integrity Management Plan. Records provided to PHMSA show that this assessment was not conducted until May 2, 2019, 667 days after the deadline. Energy XXI personnel could provide no documentation explaining this delay, and no notification of it was made to PHMSA.

5. §195.583 What must I do to monitor atmospheric corrosion control?

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by §195.581.

Energy XXI failed to provide protection against corrosion when atmospheric corrosion was identified during an inspection.

The PHMSA inspector observed active atmospheric corrosion at two locations on Energy XXI pipelines in Port Fourchon, Louisiana and on East Timbalier Island, Louisiana. Atmospheric corrosion inspection records provided to PHMSA indicate that the corrosion in Port Fourchon was first documented in 2016 and the corrosion on East Timbalier Island was first documented in 2017. Energy XXI attempted to remediate the corrosion in Port Fourchon 2017, but the new coating had failed by 2019. Energy XXI could not provide evidence that any action was taken to remediate the corrosion on East Timbalier Island.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. 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 2, 3, and 5, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Cox Operating, 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 4 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. 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. 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 4-2020-7003** 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 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue to Cox Operating, LLC, (Cox) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Cox with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to failure to identify pipeline segments that could affect a high consequence area (HCA), Cox must re-evaluate whether each offshore pipeline segment could affect a high consequence area using a method that considers releases in all areas.
2. If the evaluation in Item 1 of this compliance order results in the identification of any new HCA or HCA could affect segments Cox must review its integrity assessment data and take any actions required by §195.452.
3. In regard to Item Number 3 of the Notice pertaining to failure to evaluate the need for preventative and mitigative measures, Cox must conduct a risk analysis of each pipeline segment that could affect an HCA and identify appropriate preventive and mitigative measures for those segments.
4. In regard to Item Number 5 of the Notice pertaining to failure to provide protection against atmospheric corrosion, Cox must inspect its pipeline and pipeline facilities in Port Fourchon and East Timbalier Island, LA for atmospheric corrosion, remediate any corrosion found, and ensure the pipelines are protected against atmospheric corrosion as required by §195.583.
5. Cox must provide Mary L. McDaniel, Director, Southwest Region, with documentation that shows completion of numbers 1, 2, 3, and 4 within 120 days following the receipt of the final order.
6. It is requested (not mandated) that Cox Operating LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest 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.