

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

August 18, 2021

Dudley Poston
Chief Executive Officer
Delfin Offshore Pipeline LLC
25 West Cedar Street, Suite 215
Pensacola, Florida 32502

CPF 4-2021-027-NOPV

Dear Mr. Poston:

From October 27, 2020 through March 3, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) virtually inspected Delfin Offshore Pipeline LLC's (Delfin) operations and maintenance records and written procedures.

Based on the inspection, it is alleged that Delfin 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 once 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.

Delfin failed to prepare and follow a written operations and maintenance manual as required by § 192.605(a).

During the inspection, PHMSA requested Delfin's written Operation and Maintenance Manual for review as required by § 192.605(a). Delfin asserted that its pipelines are covered under another pipeline operator's, Genesis Energy (Genesis), written Operation & Maintenance Program per the Interoffice Memorandum (Acceptance of Manta Ray Gathering Company Plans & Procedures for Delfin Offshore Pipeline), Dated September 4, 2018 (Original), and August 6, 2020 (Revision 1).

Manta Ray Gathering Company (Manta Ray) is a wholly-owned subsidiary of Genesis, and the contract provides that Manta Ray is responsible for providing the personnel and equipment necessary to conduct routine operations and maintenance activities on the Delfin Offshore Pipeline on behalf of Delfin. These operations and maintenance activities include the periodic testing and inspecting of the pipeline required by federal and state regulations.

Delfin has accepted *Genesis Energy: Operations and Maintenance Procedures Manual-Gas*. This plan includes sections on damage prevention (One-Call) and public awareness programs. Acceptance of the *Genesis Energy: Operations & Maintenance Procedures Manual-Gas* shall be interpreted to include acceptance of the included Genesis Energy Operator Qualification (OQ) Manual and corresponding OQ procedures and documentation.

Although the Interoffice Memorandum between Delfin and Genesis covers the maintenance and operation of the offshore assets, the manual fails to reference Delfin or describe any of the assets covered under its plan.

2. § 192.615 Emergency plans.

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency...

Delfin failed to develop and follow written procedures to minimize the hazard resulting from a gas pipeline emergency that contains the elements described in § 192.615 for its covered pipeline segments.

Delfin asserted that its pipelines are covered under Genesis's written Operation & Maintenance Program per the Interoffice Memorandum.

Manta Ray is a wholly-owned subsidiary of Genesis, and the contract provides that Manta Ray is responsible for providing the personnel and equipment necessary to conduct routine operations and maintenance activities on the Delfin Offshore Pipeline on behalf of Delfin. These operations and maintenance activities include the periodic testing and inspecting of the pipeline required by federal and state regulations.

Delfin has accepted *Genesis Energy: Emergency Response Plans* as a procedure to minimize the hazard resulting from a gas pipeline emergency. Although the Interoffice Memorandum

between Delfin and Genesis covers the Emergency Response Plans of the offshore assets, the Delfin assets are not identified within *Genesis Energy: Emergency Response Plans*.

3. § 192.805 Qualification program.

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

(a) Identify covered tasks...

Delfin failed to develop and follow a written qualification program that contains the elements described in § 192.805 for its covered pipeline segments.

Delfin asserted that its pipelines are covered under Genesis's written Operation & Maintenance Program per the Interoffice Memorandum.

Manta Ray is a wholly-owned subsidiary of Genesis, and the contract provides that Manta Ray is responsible for providing the personnel and equipment necessary to conduct routine operations and maintenance activities on the Delfin Offshore Pipeline on behalf of Delfin. These operations and maintenance activities include the periodic testing and inspecting of the pipeline required by federal and state regulations.

Delfin has accepted *Genesis Energy: Operations and Maintenance Procedures Manual-Gas*. Acceptance of the *Genesis Energy: Operations & Maintenance Procedures Manual-Gas* shall be interpreted to include acceptance of the included OQ Manual and corresponding OQ procedures and documentation.

Although the Interoffice Memorandum between Delfin and Genesis covers the maintenance and operation of the offshore assets, the manual fails to reference Delfin or describe any of the assets covered under its plan.

4. § 192.907 What must an operator do to implement this subpart?

(a) General. No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

Delfin failed to develop and follow a written integrity management program that contains the elements described in § 192.911 for its covered pipeline segments.

During the inspection, PHMSA requested a procedure to demonstrate the identification of pipeline segments in high consequence areas. Delfin affirmed that its segments are covered under Genesis's programs (IMP Revision 3 01/08/2020. Procedure 101G Gas-Procedure to Identify HCA Areas) per the Interoffice Memorandum.

Manta Ray is a wholly-owned subsidiary of Genesis, and the contract provides that Manta Ray is responsible for providing the personnel and equipment necessary to conduct routine operations and maintenance activities on the Delfin Offshore Pipeline on behalf of Delfin. These operations and maintenance activities include the periodic testing and inspecting of the pipeline required by federal and state regulations.

Delfin has accepted *Genesis Energy: Integrity Management Program* as an appropriate guideline for the integrity of its covered pipeline segments. Although the Interoffice Memorandum between Delfin and Genesis covers the integrity management of the assets, the Delfin assets are not included, or risk ranked within the Genesis Integrity Management Program.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, Delfin Offshore Pipeline LLC is subject to a civil penalty not to 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.

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

Compliance Order Items

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 Delfin Offshore Pipeline 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. 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 4-2021-027-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

cc: William Daughdrill, President, Delfin Offshore Pipeline LLC, w.daughdrill@delfinlng.com

PROPOSED COMPLIANCE ORDER

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

- A. In regards to Item 1 of the Notice pertaining to Delfin failing to prepare and follow a written operations and maintenance plan that contains the elements described in § 192.605 for its covered pipeline segments, Delfin must prepare and follow an operations and maintenance plan for its pipelines or have those pipelines incorporated into the manual provided in its contracted services. Delfin must complete the preparation and implementation within 120 days of receipt of the Final Order.
- B. In regards to Item 2 of the Notice pertaining to Delfin failing to comply with the regulation to develop and follow written procedure to minimize the hazard resulting from a gas pipeline emergency that contains the elements described in § 192.615 for its covered pipeline segments, Delfin must develop and implement an emergency response plan for its covered pipeline segments within 120 days of receipt of the Final Order.
- C. In regards to Item 3 of the Notice pertaining to Delfin failing to comply with the regulation to develop and follow a written qualification program that contains the elements described in § 192.805 for its covered pipeline segments, Delfin must develop and implement a qualification program for its covered pipeline segments within 120 days of receipt of the Final Order.
- D. In regards to Item 4 of the Notice pertaining to Delfin failing to comply with the regulation to develop and follow a written integrity management program that contains the elements described in § 192.911 for its covered pipeline segments, Delfin must develop and implement an integrity management program for its covered pipeline segments within 120 days of receipt of the Final Order.

It is requested (not mandated) that Delfin Offshore Pipeline 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.