

October 25, 2024

**VIA ELECTRONIC MAIL TO: martyn.willsher@amplifyenergy.com**

Martyn Willsher  
President and Chief Executive Officer  
Amplify Energy Corp.  
500 Dallas, Suite 1700  
Houston, Texas 77002

**Re: CPF No. 2-2024-006-NOPV**

Dear Mr. Willsher:

Enclosed please find the Final Order issued in the above-referenced case to Beta Offshore, a subsidiary of Amplify Energy Corp. It makes findings of violations and assesses a civil penalty of \$59,400. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. James A. Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA  
Mr. Daniel Furbee, Senior Vice President and Chief Operating Officer, Amplify Energy Corp., dan.furbee@amplifyenergy.com

Mr. Jeff Ortloff, Director of Facilities Engineering, Amplify Energy Corp.,  
jeff.ortloff@amplifyenergy.com

Mr. Jason Moore, Vice President, Human Resources and Administration, Amplify  
Energy Corp., jason.moore@amplifyenergy.com

CONFIRMATION OF RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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|-------------------------------------|---|--------------------------------|
|                                     | ) |                                |
| <b>In the Matter of</b>             | ) |                                |
|                                     | ) |                                |
| <b>Beta Operating Company, LLC,</b> | ) | <b>CPF No. 2-2024-006-NOPV</b> |
| <b>d/b/a Beta Offshore,</b>         | ) |                                |
|                                     | ) |                                |
| <b>Respondent.</b>                  | ) |                                |
|                                     | ) |                                |

**FINAL ORDER**

From March 20 through March 21, 2024, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a pipeline safety inspection of the facilities and records of Beta Offshore (Beta or Respondent) in Houston, Texas. PHMSA inspected Respondent’s Drug and Alcohol (D&A) program in relation to an October 1, 2021 accident (the Accident) that occurred on Beta’s crude oil pipeline facility near Huntington Beach, California.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated June 12, 2024, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed two violations of 49 C.F.R. Part 199 and proposed assessing a civil penalty of \$59,400 for the alleged violations.

Amplify Energy Corp. responded to the Notice on behalf of Beta by letter dated August 1, 2024 (Response).<sup>1</sup> In its Response, Respondent did not contest the allegations of violation or the proposed civil penalty. However, Respondent did contest one of the statements of fact in the narratives of Items 1 and 2 in the Notice. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 199, as follows:

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<sup>1</sup> Beta is a subsidiary of Amplify Energy Corp. *See*, Letter from Jason Moore, V.P., H.R & Admin., Amplify Energy Corp., on behalf of Beta Offshore, to James A. Urisko, Southern Region Dir., PHMSA, RE: CPF 2-2024-006-NOPV (Aug. 1, 2024) (on file with PHMSA) [hereinafter Response].

**Item 1.** The Notice alleged that Respondent violated 49 C.F.R. § 199.105(b)(1), which states:

**§ 199.105 Drug tests required.**

(a) . . . .

(b) *Post-accident testing.*

(1) As soon as possible but no later than 32 hours after an accident, an operator must drug test each surviving covered employee whose performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

The Notice alleged that Respondent violated 49 C.F.R. § 199.105(b)(1) by failing to drug test for the presence of a prohibited drug, as soon as possible but no later than 32 hours after an accident, each surviving covered employee whose performance of a covered function either contributed to the Accident or cannot be completely discounted as a contributing factor to the Accident. Specifically, Beta did not conduct any post-accident drug testing on any covered employees after the Accident.

Respondent did not contest the alleged violation or the accompanying civil penalty. However, Respondent did contest one of the statements in the Notice's narrative for Item 1 and requested PHMSA clarification of such in this Final Order.<sup>2</sup> The statement at issue in the Notice quotes the National Transportation Safety Board (NTSB) report<sup>3</sup> addressing the Accident, explaining that "[a]ccording to the NTSB report, 'pipeline controllers contributed to the 14-hour delay in stopping the pipeline's shipping pumps, which consequently increased the volume of crude oil released, following the first leak alarm.'"<sup>4</sup> Respondent states that "[t]his statement in isolation suggests that Beta never shut off the pumps over the course of 14 hours . . . the NTSB report makes it clear that Beta did not run the pumps that entire time."<sup>5</sup> Respondent requested PHMSA clarify in this Final Order "that Beta did not run the pumps for 14 hours after the first alarm indications, and instead shut down and restarted the pipeline several times as part of its efforts to attempt to determine the cause of the alarm."<sup>6</sup>

I acknowledge Beta's statements that during the Accident its personnel stopped the pumps at different junctures and attempted to determine the cause of the alarms, as is reflected in the

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<sup>2</sup> See Response, at 1-2.

<sup>3</sup> NTSB Report MIR-24-01 (Jan. 2, 2024), available at <https://www.nts.gov/investigations/AccidentReports/Reports/MIR2401.pdf>.

<sup>4</sup> *Id.*, at 6.

<sup>5</sup> Response, at 2.

<sup>6</sup> *Id.*, at 3.

NTSB report.<sup>7</sup> However, that acknowledgment does not affect the allegation in Item 1 of the Notice. I note the statement PHMSA quoted from in the NTSB report in Item 1 reflects NTSB's conclusion in relation to controller training that their actions contributed to the amount of crude oil released. That statement supports the allegation in Item 1 that these employees should have been subject to post-accident drug testing under § 199.105, and Beta also did not prepare and maintain a decision stating the reasons why the testing was not conducted as required.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 199.105(b)(1) by failing to drug test each surviving covered employee whose performance of a covered function either contributed to the Accident or could not be completely discounted as a contributing factor to the Accident.

**Item 2.** The Notice alleged that Respondent violated 49 C.F.R. § 199.225(a)(1), which states:

**§ 199.225 Alcohol tests required.**

Each operator must conduct the following types of alcohol tests for the presence of alcohol:

(a) *Post-accident.*

(1) As soon as practicable following an accident, each operator must test each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section must be based on specific information that the covered employee's performance had no role in the cause(s) or severity of the accident.

The Notice alleged that Respondent violated § 199.225(a)(1) failed to test for the presence of alcohol, as soon as practicable following an accident, each surviving covered employee whose performance of a covered function either contributed to the Accident or cannot be completely discounted as a contributing factor to the Accident. Specifically, the Notice alleged that Respondent failed to conduct any alcohol testing on any covered employees following the Accident.

Respondent did not contest the alleged violation in Item 2 or the proposed civil penalty. However, Respondent did contest one of the statements of fact in the narrative of the allegations for Item 2.<sup>8</sup> The statement at issue is the same statement discussed above, “[a]ccording to the NTSB report, ‘pipeline controllers contributed to the 14-hour delay in stopping the pipeline’s shipping pumps, which consequently increased the volume of crude oil released, following the first leak alarm.’”<sup>9</sup> Respondent requested PHMSA clarify in this Final Order that “Beta did not

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<sup>7</sup> NTSB Report MIR-24-01, at 1, 4-7.

<sup>8</sup> See Response, at 1-2.

<sup>9</sup> NTSB Report MIR-24-01, at 6.

run the pumps for 14 hours after the first alarm indications, and instead shut down and restarted the pipeline several times as part of its efforts to attempt to determine the cause of the alarm.”<sup>10</sup>

Consistent with Item 1 above, I acknowledge Beta’s statements that during the Accident its personnel stopped the pumps at different junctures and attempted to determine the cause of the alarms, as is reflected in the NTSB report.<sup>11</sup> However, that acknowledgment does not affect the allegation in Item 2 of the Notice. I note the statement PHMSA quoted from in the NTSB report in Item 2 reflects NTSB’s conclusion in relation to controller training that their actions contributed to the amount of crude oil released. That statement supports the allegation in Item 2 that these employees should have been subject to post-accident alcohol testing under § 199.225, and Beta also did not prepare and maintain its decision stating the reasons why the testing was not conducted as required.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 199.225(a)(1) by failing to conduct alcohol testing each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the Accident or cannot be completely discounted as a contributing factor to the Accident.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>12</sup>

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent’s culpability; the history of Respondent’s prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$59,400 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$29,700 for Respondent’s violation of 49 C.F.R. § 199.105(b)(1) for failing to drug test each surviving covered employee whose performance of a covered function either contributed to the Accident or could not be completely discounted as a

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<sup>10</sup> Response, at 2.

<sup>11</sup> *Id.*, at 1, 4-7.

<sup>12</sup> These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223 for adjusted amounts.

contributing factor to the Accident. Respondent did not contest the alleged violation or the proposed civil penalty, and did not present any information justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$29,700 for violation of 49 C.F.R. § 199.105(b)(1).

**Item 2:** The Notice proposed a civil penalty of \$29,700 for Respondent's violation of 49 C.F.R. § 199.225(a)(1) for failing to conduct alcohol testing each surviving covered employee for alcohol if that employee's performance of a covered function either contributed to the Accident or cannot be completely discounted as a contributing factor to the Accident. Respondent did not contest the alleged violation or proposed civil penalty, and did not present any information justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$29,700 for violation of 49 C.F.R. § 199.225(a)(1).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$59,400**.

Failure to pay the civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

October 25, 2024

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued