



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

230 Peachtree Street N.W.
Suite 2100
Atlanta, GA 30303

NOTICE OF PROBABLE VIOLATION PROPOSED CIVIL PENALTY

**VIA ELECTRONIC MAIL TO: Brent.Chalmers@amplifyenergy.com;
Jeff.Ortloff@amplifyenergy.com**

June 12, 2024

Brent Chalmers
Vice President, Beta Operations
Beta Offshore
500 Dallas, Suite 1700
Houston, TX 77002

CPF 2-2024-006-NOPV

Dear Mr. Chalmers:

From March 20 through March 21, 2024, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the Beta Offshore (Beta) Drug and Alcohol (D&A) program in Houston, Texas.

As a result of the inspection, it is alleged that Beta has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are as follows:

1. § 199.105 Drug tests required

Each operator shall conduct the following drug tests for the presence of a prohibited drug:

(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.

Beta did not 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.

At 4:10 pm local time on October 1, 2021, an accident occurred on the Beta crude oil pipeline in San Pedro Bay off the coast of Huntington Beach, California. The accident met the definition of an accident in § 199.3, which, in part, refers to a hazardous liquid pipeline accident reportable under 49 CFR Part 195.

The National Transportation Safety Board (NTSB) investigated the pipeline accident and determined that Beta's pipeline controllers had a role in the severity of the accident by failing to shut down and isolate the pipeline. According 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."* These pipeline controllers were surviving covered employees.

While § 199.105(b)(1) requires post-accident drug testing for PHMSA reportable accidents, it does allow an operator to decide not to drug test but the operator's decision not to test must be based on specific information that a covered employee's performance had no role in the cause(s) or severity of the accident. Moreover, a decision not to test must be documented per § 199.105(b)(2) and records of decisions not to administer post-accident employee drug tests must be kept for at least 3 years per § 199.117(a)(5).

During the PHMSA D&A program inspection, Beta representatives admitted they did not conduct any post-accident drug testing on any covered employees and that they did not prepare and maintain any decisions or records stating the reasons why the drug testing was not administered.

2. § 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.

Beta did not 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.

At 4:10 pm local time on October 1, 2021, an accident occurred on the Beta crude oil pipeline in San Pedro Bay off the coast of Huntington Beach, California. The accident met

the definition of an accident in § 199.3, which, in part, refers to a hazardous liquid pipeline accident reportable under 49 CFR Part 195.

The NTSB investigated the pipeline accident and determined that Beta's pipeline controllers had a role in the severity of the accident by failing to shut down and isolate the pipeline. According 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." These pipeline controllers were surviving covered employees.

While § 199.225(a)(1) requires post-accident alcohol testing for PHMSA reportable accidents, it does allow an operator to decide not to administer an alcohol test but the operator's decision not to administer a test must be based on specific information that a covered employee's performance had no role in the cause(s) or severity of the accident. Moreover, records of decisions not to administer post-accident employee alcohol tests must be kept for at least 3 years per § 199.227(b)(4).

During the PHMSA D&A program inspection, Beta representatives admitted they did not conduct any post-accident alcohol testing on any covered employees and that they did not prepare and maintain any decisions or records stating the reasons why the testing was not administered.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not 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 violation 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$ 59,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 29,700
2	\$ 29,700

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. 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 2-2024-006-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



James A. Urisko
 Director, Southern Region, Office of Pipeline Safety
 Pipeline and Hazardous Materials Safety Administration

Enclosures: *Response Options for Pipeline Operators in Enforcement Proceedings*