



U.S. Department of Transportation

**Pipeline and Hazardous Materials
Safety Administration**

8701 S. Gessner, Suite 630
Houston TX 77074

WARNING LETTER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

October 30, 2020

Rodney Dykes
President and Chief Operating Officer
Cox Operating, LLC
1615 Poydras Street, Suite 830
New Orleans, Louisiana 70112

CPF 4-2020-011-WL

Dear Mr. Dykes:

From June 14, 2020 through September 27, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), reviewed an Integrity Management (IM) Notification submitted on June 10, 2020, by Cox Operating, LLC (Cox).

As a result of the review, it is alleged that Cox has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item reviewed, and the probable violation is:

1. § 195.505 Qualification program.

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

(b) Ensure through evaluation that individuals performing covered tasks are qualified.

Cox failed to ensure through evaluation that an individual performing a covered task was qualified as required by § 195.505(b). Specifically, a contract employee performed an Armor Plate installation near the Grand Isle Terminal on August 6, 2020, with an expired qualification. The contractor's qualification for General Abnormal Operating Conditions (task CT60) expired on January 9, 2020,

Cox's Operator Qualification Program, Section 8, Covered Tasks (Last Reviewed May 24, 2019) states:

“The evaluation of Cox employees and contractors shall include how to recognize and react to potential Abnormal Operating Conditions (AOC) that could occur during the performance of each covered task they are being evaluated for.”

At the time of PHMSA's review, Cox was unable to provide documentation indicating that the contract employee was qualified prior to or at the time of performing the covered task on August 6, 2020.

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 conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the items identified in this letter. Failure to do so will result in Cox Operating, LLC, being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 4-2020-011-WL**. 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).

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration