U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

8701 S. Gessner, Suite 630
Houston TX 77074

NOTICE OF PROBABLE VIOLATION, PROPOSED CIVIL PENALTY, and PROPOSED COMPLIANCE ORDER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

February 22, 2022

Eric Amundsen
Senior Vice President, Operations
Florida Gas Transmission Company
1300 Main Street
Houston, Texas 77002

CPF 4-2022-012-NOPV

Dear Mr. Amundsen:

From March 9, 2020, through July 9, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Florida Gas Transmission Company's (FGT) pipeline system in Texas, Louisiana, Mississippi, Alabama, and Florida.

As a result of the inspection, it is alleged that FGT 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. **§ 191.5 - Immediate notice of certain incidents.**

   (a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

   FGT failed to notify the National Response Center (NRC) at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, of two instances of incident on its pipeline facilities as identified in the table below.

Incident Report Number	Location	Date of Incident	Time Discovered	Date Reported to NRC	Time Reported to NRC	Hours Late
20190047	Pinecrest, Florida	3/21/2019	1721	3/21/2019	1955	1 ½ hours
20190126	Orlando, Florida	11/7/2019	2243	11/8/2019	1025	11 hours

As shown in the table above incident reports 20190047 and 20190126 were reported to the National Response Center (NRC) 1.5 and 11 hours after confirmed discovery, in violation of 49 CFR 191.5.

2. **§ 192.481 - Atmospheric corrosion control: Monitoring.**

(a) …
(c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by § 192.479.

§ 192.479 - Atmospheric corrosion control; General.

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

FGT failed to provide protection against corrosion found during the atmospheric corrosion control inspection performed under § 192.481. Specifically, FGT failed to clean and coat sections of pipeline at its West Miami Meter Station where areas of corrosion were identified on its aboveground pipeline and components. The pipe and components showed coating deterioration that required remediation, which had not been completed at the time of PHMSA's inspection.

Following PHMSA's on-site inspection, FGT provided a copy of its repair record, GForm ID: 140857, documenting that the pipeline coating was removed and the section of pipeline was recoated.

3. **§ 192.915 - What knowledge and training must personnel have to carry out an integrity management program?**

(a) …
(b) ***Persons who carry out assessments and evaluate assessment results.*** **The integrity management program must provide criteria for the qualification of any person--**
(1) Who conducts an integrity assessment allowed under this subpart; or
(2) Who reviews and analyzes the results from an integrity assessment and evaluation; or
(3) Who makes decisions on actions to be taken based on these assessments.

FGT failed to ensure that qualified individuals conducted integrity assessments and reviewed and analyzed integrity assessment and evaluation results on its pipeline facilities. FGT's written *Pipeline Integrity In-line Inspection Specification, 7.1.1 Qualification & Certification* (Revision Date: 3/15/2019) requires a "Level III Data Analyst" to finalize and approve all material from projects carried out using aMFL, cMFL, and GEO tools, and that the analyst be certified under ANSI/ASNT ILI-PQ-2010. However, Level III Data Analysts were not used to review and analyze the results of in-line inspections.

PHMSA reviewed FGT's records and found that the Level III Data Analyst qualification requirement was missing from a number of those records, such as the "FLMEB-21 Mainline Loop S21 – V20-5AR" report of tool run from October 2018, and the "FLMEB-21 - G21-10A to G20 -8AR" report from November 2018. Following the inspection, FGT provided records showing revisions from the vendor that the data in the FLMEB-21 reports had been reviewed by a Level III ANSI/ASNT Data Analyst and that the records did not require any further revisions.

4. § 192.921 - How is the baseline assessment to be conducted?

(a) *Assessment methods.* An operator must assess the integrity of the line pipe in each covered segment by applying one or more of the following methods for each threat to which the covered segment is susceptible. An operator must select the method or methods best suited to address the threats identified to the covered segment (*See* § 192.917).

(1) Internal inspection tool or tools capable of detecting those threats to which the pipeline is susceptible. The use of internal inspection tools is appropriate for threats such as corrosion, deformation and mechanical damage (including dents, gouges and grooves), material cracking and crack-like defects (e.g., stress corrosion cracking, selective seam weld corrosion, environmentally assisted cracking, and girth weld cracks), hard spots with cracking, and any other threats to which the covered segment is susceptible. When performing an assessment using an in-line inspection tool, an operator must comply with § 192.493. In addition, an operator must analyze and account for uncertainties in reported results (e.g., tool tolerance, detection threshold, probability of detection, probability of identification, sizing accuracy, conservative anomaly interaction criteria, location accuracy, anomaly findings, and unity chart plots or equivalent for determining uncertainties and verifying actual tool performance) in identifying and characterizing anomalies;

FGT failed to validate its baseline assessment by not conducting excavation digs on its FLMEF-2426 pipeline segment following the 2018 assessment in accordance with § 192.921(a)(1) and its written *Pipeline Integrity Management Plan, 7.2.11 Validation of ILI Data* (Revision Date: 1/20/2020). FGT's procedure requires that "The Project Manager will conduct a comparison between the final ILI results presented by the vendor and the actual anomalies."

The actual size and description of the anomalies are typically received during the excavation digs, and corrections are applied to the results based on the findings. FGT did not conduct any excavation digs following the 2018 assessment, but rather chose to validate the results from the 2018 assessment against the "As-Called" data (rather than against the "As-Found" data) from calendar year 2011, as shown on the "Unity Plot" record.

In the response to PHMSA's Post-Inspection Writtten Preliminary Findings Report received on October 1, 2021, FGT stated that it used its pseudo dig data from 2011 for previously excavated anomalies to carry out the validation. The records clearly show that the 2018 "As-Called" data from the tool assessment was plotted against the 2011 "As-Called" data, rather than the "As-Found" data. There was no field excavation carried out in 2018 to use in the validation of the tool performance. Additionally, the results of the "Unity Plot" from the assessment conducted in 2011 presented that more than half of the data plotted were outside the tool tolerance. FGT relied on the tools in 2011 and 2018 performing as required, even when the data from the records reviewed proved the tool performance to be questionable.

5. § 192.935 What additional preventive and mitigative measures must an operator take?

(a) …
(b) Third party damage and outside force damage-
(1) …
(2) *Outside force damage.* If an operator determines that outside force (e.g., earth movement, loading, longitudinal, or lateral forces, seismicity of the area, floods, unstable suspension bridge) is a threat to the integrity of a covered segment, the operator must take measures to minimize the consequences to the covered segment from outside force damage. These measures include increasing the frequency of aerial, foot or other methods of patrols; adding external protection; reducing external stress; relocating the line; or inline inspections with geospatial and deformation tools.

FGT failed to take appropriate measures to minimize the consequences to its pipelines from outside force damage. Specifically, FGT limited its evaluation of outside force damage to only right-of-way (ROW) patrols for identifying potential preventative and mitigative measures. Since 2003, PHMSA has issued five Advisory Bulletins providing guidance to identify potential preventive and mitigative measures for third party and outside force damage prevention, which include:

1. Conducting depth of cover surveys in areas where the pipeline crosses a navigable waterway that is exposed to flooding (this can include underwater surveys to detect any exposures);

2. Conducting depth of cover surveys in areas where the pipeline crosses a navigable waterway that is exposed to flooding (this can include underwater surveys to detect any exposures);
3. Extending regulator vents and relief stacks above the level of anticipated flooding as appropriate where needed; and
4. Communicating with local and state officials to address their concerns regarding observed pipeline exposures, localized flooding, ice dams, debris dams, and extensive bank erosion that may affect the integrity of pipeline crossings.

In its response to PHMSA's Post-Inspection Written Preliminary Findings Report received on October 1, 2021, FGT stated that it "has multiple SOP's [Standard Operating Practice] that address the potential threats of outside force damage including SOPs I.16 River Crossing Inspections and Post Flood Surveys, I.24 Management of Depth of Cover and Evaluation, I.25 Pipeline Spans and Aerial Crossing Inspections, I.26 Mining Subsidence and Soil Slippage, [and] I.42 Geohazard Management Guidelines."

Based on a review of the records provided after the inspection, only the ROW patrols are being carried out to address the threat of outside forces.

6. **§ 192.935 - What additional preventive and mitigative measures must an operator take?**

(a) …
(c) *Automatic shut-off valves (ASV) or Remote control valves (RCV).* If an operator determines, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, an operator must install the ASV or RCV. In making that determination, an operator must, at least, consider the following factors—swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel.

FGT failed to conduct an evaluation, based on a risk analysis, regarding the use of automatic shut-off valves on its pipeline system. FGT could not provide its evaluation in determining the need or lack of need for automatic shut-off valves on its pipeline system.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violations 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 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.

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 $19,300 as follows:

Item number	PENALTY
1	$19,300

Proposed Compliance Order

With respect to Items 5, and 6 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Florida Gas Transmission Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Items

With respect to Items 2, 3, 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 4-2022-012-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

MARY LOUISE MCDANIEL

Digitally signed by MARY LOUISE MCDANIEL
Date: 2022.02.22 13:32:25 -06'00'

Mary L. McDaniel, P.E.
Director, Southwest Region, Office of Pipeline Safety
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 (PHMSA) proposes to issue to Florida Gas Transmission Company (FGT) a Compliance Order incorporating the following remedial requirements to ensure compliance with the pipeline safety regulations:

A. In regard to Item 5 of the Notice pertaining to taking appropriate measures to minimize the consequences to its pipelines from outside force damage, FGT must review records associated with the various programs listed in its October 1, 2021 response, including SOPs I.16 River Crossing Inspections and Post Flood Surveys, I.24 Management of Depth of Cover and Evaluation, I.25 Pipeline Spans and Aerial Crossing Inspections, I.26 Mining Subsidence and Soil Slippage, and I.42 Geohazard Management Guidelines, and integrate data where found into FGT's Integrity Management Plan records within **90** days of receipt of the Final Order.

B. In regard to Item 6 of the Notice pertaining to FGT's evaluation, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, FGT must conduct this evaluation for the high consequence areas and provide documentation or records of any evaluations within **90** days of receipt of the Final Order.

It is requested (not mandated) that FGT maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel P.E., 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.