

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

July 28, 2023

Jeffrey W. Gifford
Vice President, HSSE
Genesis Pipeline USA, LP
919 Milam Street
Suite 2100
Houston, Texas 77002

CPF 2-2023-002-NOPV

Dear Mr. Gifford:

From July 19 to July 23, 2021, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Genesis Pipeline USA, LP (Genesis) procedures and records in a virtual teleconference.

As a result of the inspection, it is alleged that Genesis 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. **§ 195.440 Public Awareness**

(a) . . .

(b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique attributes and characteristics of the operator's pipeline and facilities

Genesis failed to meet the regulation because it did not assess the unique attributes and characteristics of its pipeline facilities in its Public Awareness Program baseline message brochures provided to the affected public. Specifically, Genesis' baseline message brochures provided to the affected public described natural gas, highly volatile liquids, and hazardous liquids. Genesis exclusively transports crude oil in Florida, Alabama, Mississippi, and Southeast Louisiana.

At the time of PHMSA's inspection, the baseline message brochures provided to the affected public contained one booklet and one leaflet. The booklet contained a section titled "How to recognize a pipeline leak." The referenced section described how to recognize pipeline leaks using "sight, sound, and smell" for natural gas, HVLs, and hazardous liquids. The only statement regarding hazardous liquids in the referenced section was: "Hazardous liquids produce a strong sheen or film standing on a body of water." Additionally, the leaflet described "Products Transported in Your Area" and specified "Hazardous Liquids [Such as Crude Oil, Diesel Fuel, Jet Fuel, Gasoline, and other Refined Products] and Natural Gas."

2. **§ 195.52 Immediate notice of certain accidents.**

(a) . . .

(d) New information. Within 48 hours after the confirmed discovery of an accident, to the extent practicable, an operator must revise or confirm its initial telephonic notice required in paragraph (b) of this section with a revised estimate of the amount of product released, location of the failure, time of the failure, a revised estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the accident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.

Genesis failed to meet the regulation because it did not revise or confirm its initial telephonic notice within 48 hours after the confirmed discovery of two accidents in 2018. In 2018, Genesis had two reportable accidents that were reported to the National Response Center (NRC) as required by § 195.52(a).

The first accident, Accident Report No. 20180201-30758, occurred on 06/19/2018, with the initial telephonic report to the NRC occurring at 16:13 local time, according to Part A

in the report. Part H of the same report lists a supplemental report date of 08/06/2018, 48 days after the initial telephonic report to the NRC.

The second accident, Accident Report No. 20180357-32116, occurred on 10/22/2018, with the initial telephonic report to the NRC occurring at 08:54 local time, according to Part A in the report. Part H of the same report lists a supplemental report date of 05/06/2019, 196 days after the initial telephonic report to the NRC.

Proposed Compliance Order

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 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. 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

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

With respect to item 1, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Genesis Pipeline USA, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item(s)

With respect to item 2, 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 this item. 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 2-2023-002-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: *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 Genesis Pipeline USA, LP (Genesis) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Genesis Pipeline USA, LP with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to Genesis' failure to assess the unique attributes and characteristics of its pipeline facilities in its Public Awareness Program baseline message brochures, Genesis must develop and distribute to the affected public new baseline message material that adequately addresses the unique characteristics and attributes of the crude oil transported by Genesis.
- B. Within 90 days of issuance of the Final Order, Genesis must submit to the Director, Office of Pipeline Safety, PHMSA Southern Region, documentation demonstrating satisfactory completion of Item A, including, at a minimum, a copy of the newly developed baseline message materials.
- C. It is requested (not mandated) that Genesis maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Office of Pipeline Safety, PHMSA Southern Region. 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.