

November 19, 2021

**VIA ELECTRONIC MAIL TO: [bramsey@eastonenergy.com](mailto:bramsey@eastonenergy.com)**

Mr. Brad Ramsey  
President and Chief Executive Officer  
Easton Energy Pipelines, LLC  
15375 Memorial Drive, Suite 850  
Houston, Texas 77079

**Re: CPF No. 4-2021-009-NOPV**

Dear Mr. Ramsey:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by Easton Energy Pipelines, LLC to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon transmission 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: Ms. Mary McDaniel, PE, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Matthew Cesarz, PE, Director, HSE & Regulatory, Easton Energy Pipelines, LLC,  
[mcesarz@eastonenergy.com](mailto:mcesarz@eastonenergy.com)

**CONFIRMATION OF RECEIPT REQUESTED**

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

In the Matter of	)	
	)	
Easton Energy Pipelines, LLC,	)	CPF No. 4-2021-009-NOPV
	)	
Respondent.	)	
	)	

**FINAL ORDER**

From August 10 through October 7, 2020, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Easton Energy Pipelines, LLC (Easton or Respondent) in Louisiana and Texas. Easton owns and operates over 400 miles of pipeline located throughout the Texas and Louisiana Gulf Coast.<sup>1</sup>

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated March 18, 2021, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Easton had violated 49 C.F.R. § 195.420(a) and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also included an additional warning item pursuant to 49 C.F.R. § 190.205, which required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Easton responded to the Notice by letter dated April 27, 2021 (Response). Easton contested the allegation, offered additional information in response to the Notice, and requested that the Proposed Compliance Order be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

**FINDING OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.420(a), which states:

**§ 195.420 Valve maintenance.**

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<sup>1</sup> See Pipeline Safety Violation Report (Violation Report) at 1 (March 17, 2021) (on file with PHMSA).

(a) Each operator shall maintain each valve that is necessary for the safe operation of its pipeline systems in good working order at all times.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(a) by failing to maintain each valve that is necessary for safe operation of its pipeline system in good working order at all times. Specifically, the Notice alleged that during valve inspections in 2019 and 2020, four valves were noted as inoperable, and were not subsequently repaired.<sup>2</sup>

In its Response, Easton contested the allegation of violation. The company alleged that the inoperable valves were not necessary for the safe operation of its pipeline system because the valves are located on a line that is idle, purged of product, and not in active service.<sup>3</sup> Pursuant to Easton's *Inspection of Mainline Valves* procedure, P-195.420, which differentiates between valves on "active in-service" lines and those on "active idle" lines, the company deferred maintenance on the inoperable valves until such time the company chose to return the line to active service.<sup>4</sup> In support of its position, Easton cited PHMSA Advisory Bulletin (ADB) 2016-05, which states that the agency will accept "deferral of certain activities for purged but active pipelines."

Having considered Respondent's position, I find PHMSA regulations do not recognize an "idle" status for hazardous liquid pipelines. As noted by PHMSA in the Advisory Bulletin cited by Respondent, "The regulations consider pipelines to be either active and fully subject to all relevant parts of the safety regulations or abandoned." ADB 2016-05. Accordingly, only pipelines permanently removed from service are exempt from Part 195 regulations. *In re NuStar Terminals Operations Partnership, LP*, CPF No. 1-2011-5011, 2012 WL 6946967, at \*4 (Dec. 18, 2012). In *NuStar*, the operator alleged that mainline valve inspections were not required because its pipeline was idled and not transporting hazardous liquids. *Id.* PHMSA concluded, however, that the valve inspections were still required because the line had not been formally abandoned pursuant to § 195.402(c)(10). *Id.* "If a pipeline has not been abandoned according to § 195.402(c)(10), then it is considered active and the operator must comply with all requirements of Part 195." *Id.*

Since Easton did not abandon its pipeline pursuant to the requirements set forth in § 195.402(c)(10), it is an active hazardous liquid pipeline subject to all the relevant safety requirements set forth in Part 195, including § 195.420(a). PHMSA's Advisory Bulletin acknowledges that operators may defer "certain activities" for purged but active pipelines, but clarified those would be actions that are "impractical on most purged pipelines such as in-line inspections." ADB 2016-05. The Advisory Bulletin also states that if an operator plans to defer an activity, they should coordinate the deferral in advance with PHMSA. *Id.*

Valve maintenance is not impractical on an inactive, purged pipeline. The pipeline does not need to be operating with product inside for Easton to operate the valves to ensure they are in

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<sup>2</sup> These valves were located at Sites #3, #9, #10 and #11. Notice, at 1.

<sup>3</sup> It was purged of product and filled with nitrogen gas. Response, at 1.

<sup>4</sup> *Id.*, at 1-2.

good working order and repair them if they are found to be inoperable. In contrast, in-line inspection tools—cited in the Advisory Bulletin as an example of an activity that is impractical on most purged pipelines—generally require product in the pipeline to push the tool through the line. It would be impractical, if not impossible, to run in-line inspection tools in most purged pipelines. Further, Easton did not coordinate the deferral of the valve repairs in advance with PHMSA. Instead, PHMSA discovered during a routine safety inspection that Respondent had failed to repair valves that were not in working order.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.420(a) by failing to maintain each valve that is necessary for safe operation of its pipeline system in good working order at all times.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.420(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.420(a) (**Item 1**), Respondent must submit a plan to remediate the inoperable valves located at Valves Sites #3, #9, #10, and #11 within 30 days of receipt of the Final Order. Respondent must complete the approved remedial work plan, and submit records demonstrating that the plan was completed, to the Director within 180 days of receipt of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

**WARNING ITEM**

With respect to Item 2, the Notice alleged a probable violation of Part 195, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 195.410(a)(2)(ii) (**Item 2**) — Respondent's alleged failure to place and maintain line markers over each buried pipeline that stated the name of the current operator and a telephone number where the operator can be reached at all times on a background of sharply contrasting color.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

November 19, 2021

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued