



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

OVERNIGHT EXPRESS DELIVERY

March 27, 2020

Gregory McIlwain
Senior VP, Operations
Sunoco Pipeline, L.P.
1300 Main Street
Houston, TX 77002

CPF 1-2020-5001

Dear Mr. McIlwain:

From April 1 – August 16, 2019, 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 Sunoco Pipeline, L.P.'s (Sunoco) Sunoco Products East 1 pipeline system in both Pennsylvania and New Jersey.

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

1. **§ 195.420 Valve Maintenance.**
 - (a) ...
 - (b) **Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.**

Sunoco failed to inspect each mainline valve at intervals not exceeding 7 ½ months, but at least twice each calendar year, to determine that it was functioning properly. Specifically, Sunoco failed in twelve (12) instances to inspect three (3) mainline valves (MLV) on its 4.1 mile, 16" crude pipeline ID #11124 (Line 11124) between 2017 and 2018.

During the inspection, the PHMSA inspector reviewed valve maintenance inspection records for Line 11124. Line 11124 is located in the Philadelphia area, running from the Darby Creek Tank Farm to Girard Point and crossing the Schuylkill River. When requested, Sunoco was unable to produce MLV inspection records for three (3) mainline isolation valves for Line 11124, located on either side of the Schuylkill River. In discussing the lack of records, Sunoco stated that they believed another operator was conducting the required § 195.420 MLV inspections on Line 11124 at the Schuylkill River. However, MLV inspection records from the other operator were not available, and the dates of any performed § 195.420 MLV inspections for the three MLVs were unknown. Sunoco immediately performed § 195.420 MLV inspections for the three isolation valves and added them to its MLV maintenance list for future inspection.

Sunoco has been reporting to PHMSA that they are the operator of Line 11124 via its past and current annual reports required by § 195.49. Sunoco has also reported to the National Pipeline Mapping Systems, in accordance with § 191.29, that they are the operator of the pipeline.

Sunoco subsequently provided to PHMSA contractual agreements between themselves and the other operator regarding Line 11124. However, as Sunoco reported to PHMSA, they are the operator of this line, and they are not relieved from the responsibility for compliance with the requirements of Part 195, as discussed in § 195.10.¹

Therefore, Sunoco failed in twelve (12) instances to inspect three (3) mainline valves on Line 11124 at intervals not exceeding 7 ½ months, but at least twice each calendar year, to determine that they were functioning properly.

2. § 195.505 Qualification program.

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

- (a) ...**
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**

Sunoco failed to ensure through evaluation that two employees were qualified to perform covered tasks. Specifically, Sunoco failed to ensure certain individuals performing monthly breakout tank visual inspections at its Paulsboro and Marcus Hook Tank farms between 2016 and 2019 were qualified.

During the inspection, monthly breakout tank visual inspection records and the associated OQ records for individuals performing these activities were reviewed. The PHMSA inspector noted individuals at the Paulsboro Tank Farm and the Marcus Hook Tank Farm who were not qualified according to Sunoco's OQ covered tasks for performing the work based upon the records provided. Specifically, these tasks were PLOQ805 - Monthly Visual Inspection of Breakout tanks (Energy

¹ Section 195.10 'Responsibility of operator for compliance with this part' states the following:
An operator may make arrangements with another person for the performance of any action required by this part. However, the operator is not thereby relieved from the responsibility for compliance with any requirement of this part.

Transfer nomenclature) and/or Task #271 – Routine Monthly Inspection of Break Out Tanks (ISNetworld nomenclature).²

The records indicated that one individual was not qualified to perform this covered task between 11/14/16 and 1/14/19, but performed 136 monthly breakout tank inspections during that time period at the Paulsboro Tank Farm. The other individual was not qualified for this covered task between 11/13/16 and 12/17/17, but performed 6 monthly breakout tank inspections during that time period at the Marcus Hook Tank Farm. Both individuals had previously been qualified to perform the covered task before the lapse occurred in their OQ qualifications.

According to the inspection documentation provided by Sunoco, a qualified employee was not noted as present to observe or direct these individuals at the work site.

Therefore, Sunoco failed to ensure through evaluation that individuals performing monthly breakout tank visual inspections were qualified.

Proposed Civil Penalty

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 documentation involved for the above probable violation(s) and have recommended that you be preliminarily assessed a civil penalty of \$165,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$128,500
2	\$36,600

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 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).

² Sunoco transitioned from ISNetworld OQ program to Energy Transfer OQ Program effective May 1, 2018.

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 the 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 1-2020-5001** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

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