

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 2, 2015

Mr. Mac Hummel
Executive Vice President
Ohio River Valley Pipeline, LLC
2501 Cedar Springs Road, Suite 100
Dallas, Texas 75201

CPF 3-2015-5009

Dear Mr. Hummel:

On December 10-14, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your facilities and records in Nashport, Ohio.

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

1. §195.49 Annual report

Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. An operator must submit the annual report by June 15 each year, except that for the 2010 reporting year the report must be submitted by August 15, 2011. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, carbon dioxide pipelines, and fuel grade ethanol pipelines. For each state a pipeline traverses, an operator must separately complete those sections on the form requiring information to be reported for each state.

Ohio River Valley Pipeline's previous annual reports were submitted on the premise of the pipeline being a covered regulated rural gathering line. PHMSA has determined that your pipeline does not meet the definition of a gathering line per 49 CFR 195.2 and is, therefore, a covered pipeline under 195.1(a)(3). Annual reports must accurately reflect the status of the pipeline as a hazardous liquid pipeline subject to the scope of all Subparts of 49 CFR 195.

2. §195.402 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

A manual of written procedures was not implemented with regard to the full scope of Part 195 Subpart F before the pipeline system went into operation. The procedures in place at the time of inspection were inadequate because they were limited to the safety requirements required by 195.11 (b). Procedures did not address all of the regulatory requirements of Subpart F.

3. §195.452 Pipeline integrity management in high consequence areas.

(f) What are the elements of an integrity management program? An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

- (1) A process for identifying which pipeline segments could affect a high consequence area;**
- (2) A baseline assessment plan meeting the requirements of paragraph (c) of this section;**
- (3) An analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section);**
- (4) Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section);**

- (5) A continual process of assessment and evaluation to maintain a pipeline's integrity (see paragraph (j) of this section);**
- (6) Identification of preventive and mitigative measures to protect the high consequence area (see paragraph (i) of this section);**
- (7) Methods to measure the program's effectiveness (see paragraph (k) of this section);**
- (8) A process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see paragraph (h)(2) of this section).**

There was not a written integrity management program in place. The pipeline system was operated as a gathering line and not operating under the framework of an integrity management program.

Proposed Compliance Order

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations.

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

With respect to items 1, 2 and 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Ohio River Valley Pipeline, LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 3-2015-5009** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Ohio River Valley Pipeline, LLC (ORVP) a Compliance Order incorporating the following remedial requirements to ensure the compliance of ORVP with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to annual reporting, ORVP must submit a corrected Annual Report to PHMSA.
2. In regard to Item Number 2 of the Notice pertaining to the preparation of an Operations and Maintenance (O&M) manual of written procedures, ORVP must develop a comprehensive set of written O&M procedures in accordance with 195.402 and furnish a copy of the manual to the Director, Central Region, OPS, for review.
3. With regard to Item 3 of the Notice pertaining to a written integrity management plan, Ohio River Valley Pipeline, LLC must establish an integrity management plan in accordance with 195.452 and furnish to the Director, Central Region, OPS, an outline of the framework of the plan, including the identification of HCA's, and schedule of any baseline assessment for covered segments.
4. ORVP must complete all items of this Compliance Order within 120 days of the issuance of a Final Order.
5. It is requested (not mandated) that ORVP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan C. Beshore, Director, Central Region, OPS. 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.