

July 21, 2020

VIA ELECTRONIC MAIL TO: fred.hampton@valero.com

Mr. Fred Hampton
Vice President
Valero Operating Company, LLC
One Valero Way
San Antonio, Texas 78249

Re: CPF No. 4-2020-5001

Dear Mr. Hampton:

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 Valero Operating Company, 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 electronic mail is effective upon the date of 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, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. James Trevino, Manager – Regulatory Programs and Permitting, Valero Operating
Company, LLC, james.trevino@valero.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)

Valero Operating Company, LLC,)
a subsidiary of Valero Energy Corporation,)

Respondent.)

CPF No. 4-2020-5001

FINAL ORDER

From December 10, 2018 through August 9, 2019, pursuant to 49 U.S.C. § 60117, representatives 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 Valero Operating Company, LLC's (Valero or Respondent) Panhandle Crude System in Oklahoma and Texas. Valero operates approximately 435 miles of hazardous liquid pipelines transporting crude oil and refined products to support refinery operations. Valero is a subsidiary of Valero Energy Corporation, which is primarily a refiner that operates 10 hazardous liquid and gas pipeline companies including Valero.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 8, 2020, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Valero had violated 49 C.F.R. § 195.452 and proposed ordering Respondent to take certain measures to correct the alleged violation.

Valero responded to the Notice by letter dated February 7, 2020 (Response). The company did not contest the allegation of violation but provided information concerning the corrective actions it had taken and requested modification to the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Valero did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2), which states:

¹ See Pipeline Violation Safety Report, at 1 (on file with PHMSA).

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*

(2) *Evaluation.* An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2) by failing to conduct periodic evaluations as frequently as needed to ensure the integrity of each covered segment based on the results of the risk assessments. Specifically, the Notice allege that Valero failed to reanalyze and reevaluate the need for Emergency Flow Restrictive Device (EFRD) locations to determine if the EFRDs would mitigate or enhance public safety in the current high consequence area (HCA) segments.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(j)(2) by failing to conduct periodic evaluations as frequently as needed to ensure the integrity of each covered segment based on the results of the risk assessments.

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. § 195.452(j)(2). 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.

With regard to the violation of § 195.452(j)(2) (Item 1), Respondent argued the compliance terms should be modified on two specific grounds. First, Valero argued that the proposed compliance order should be modified because the violation relates to Valero's failure to complete an updated EFRD evaluation. Valero stated that it remediated that violation by conducting the study in August 2019, and that it independently concluded that it would install the EFRD identified in the August 2019 evaluation by July 2020. Second, Valero objected to the proposed compliance order requirement of installing the EFRD within 60 days of a final order being issued on the grounds that it has already put plans in place to install the EFRD by July 2020. Accordingly, Valero requested six months following the issuance of a final order to complete the check valve installation. The Director did not object to Valero's request to modify the terms of the proposed compliance order.

For the above reasons, the Compliance Order is modified as set forth below.

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 § 195.452(j)(2) (**Item 1**), Respondent must:
 - a. Valero must install the EFRD as identified in their August 9, 2019, HCA and EFRD analysis report.
 - b. Valero must complete Item 1 within 6 months 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.

It is requested (not mandated) 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 (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.

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, 2nd 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.

July 21, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued