



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 S. Gessner, Suite 630
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 8, 2020

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

CPF 4-2020-5001

Dear Mr. Hampton:

On multiple dates between December 10, 2018 and August 09, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Valero Partners Operating Company, LLC (Valero) Panhandle Crude System in Oklahoma and Texas.

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

1. **§195.452 Pipeline Integrity management in high consequence areas**
 - (j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*
 - (1) **General.** After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

(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).

Valero failed to conduct periodic evaluations as frequently as needed to ensure the integrity of each covered segment based on the results of the risk assessments. The periodic evaluations help to identify and implement additional preventative and mitigative (P&M) measures to reduce or eliminate the consequences of a pipeline failure in a High Consequence Area (HCA) and enhance public safety.

Valero's Liquid Pipeline Integrity Management Program, Section 6: Risk Management (Revision 4: Effective Date: January 2019) states:

"During the CRA and P&MM Evaluation Meeting, the meeting participants review data to determine if a pipeline should undergo an Emergency Flow Restricting Device (EFRD) Evaluation process for additional valves (check valves or remote-controlled motor-operated valves).

If the team decides to request an EFRD evaluation to determine if existing EFRDs are adequately protecting HCAs on a section of pipeline, a member of the Corporate IMP Team will prepare the appropriate work order to initiate the evaluation.

The EFRD evaluation for an in-service pipeline will be conducted using drain-down volume modeling software to investigate how including or modifying an EFRD might prevent or mitigate the effects of an unintentional release on an HCA. The evaluation includes, at a minimum, the factors listed in Table 6-4."

Table 6-4: Factors for EFRD Analysis 49 CFR 195.452(i)(4) states, for benefits expected by reducing the spill size, company's approach is to compare spill volume with and without the EFRD and what impact has on HCA risk reduction.

Valero purchased the Ardmore to Wynnewood 12" pipeline from NuStar in 2009. Prior to divesting this pipeline (on April 20, 2009), NuStar utilized their risk analysis to identify additional P&M measures to include an EFRD study. The study concluded that the installation of an EFRD would reduce the volume by 31% over 5.99 miles of HCA. NuStar did not consider the installation of an EFRD for this pipeline because of lower HCA mileage and a lower percentage volume reduction.

As a result of an HCA study Valero performed in 2012, HCA mileage increased to approximately 15.6 miles. However, Valero failed to reanalyze and/or reevaluate the need for EFRD locations to determine if the EFRDs would mitigate or enhance public safety in the current HCA segments.

An HCA and EFRD study Valero completed on August 9, 2019, states that adding an automated check valve upstream of Lazy S Ranch valve would result in approximately 54% volume reduction.

Proposed Compliance Order

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 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 Valero Operating Partners, 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).

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 4-2020-5001** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Valero Partners Operating Company, LLC (Valero) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Valero with the pipeline safety regulations:

1. In regards to Item Number 1 of the Notice, Valero must install EFRD as identified in their August 9, 2019, HCA and EFRD analysis report.
2. Valero must complete item 1 within 60 days of receipt of the Final Order.
4. It is requested (not mandated) that Valero maintains documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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.