

September 3, 2021

VIA ELECTRONIC MAIL TO: michael.vandersnick@lyb.com

Michael VanDerSnick
Senior Vice President, Americas Manufacturing
Equistar Chemicals, LP
16055 Space Center Blvd., Ste. 350
Houston, Texas 77062

Re: CPF No. 4-2021-016-NOPV

Dear Mr. VanDerSnick:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Equistar Chemicals, LP, 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
Ms. Kimberly H. Lenz, HSE Manager, Equistar Pipeline, kimberly.lenz@lyb.com

CONFIRMATION OF RECEIPT REQUESTED

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

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In the Matter of)		
)		
Equistar Chemicals, LP,)	CPF No. 4-2021-016-NOPV	
a subsidiary of LyondellBasell Industries N.V.,)		
)		
Respondent.)		
)		

FINAL ORDER

From March 2, 2020, through October 15, 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 Equistar Chemicals, LP (Equistar or Respondent) in Texas and Louisiana, specifically, its 35.3-mile propylene pipeline running from Orange, Texas to Lake Charles, Louisiana. Equistar is a subsidiary of LyondellBasell Industries N.V. and operates approximately 1,500 miles of gas and hazardous liquid pipelines in Texas and Louisiana.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated March 19, 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 Equistar had committed two violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included a 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.

Equistar responded to the Notice by letter dated April 8, 2021 (Response). The company did not contest the allegations of violation and provided information concerning the corrective actions it planned to take with respect to portions of the pipeline at issue. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Equistar did not contest the allegations 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(b)(5), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:

(1) Develop a written integrity management program

(5) Implement and follow the program.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to follow its Integrity Management Program (IMP) for identifying which pipeline segments could affect a high consequence area (HCA) as required by § 195.452(f)(1).¹ Specifically, the Notice alleged that Equistar's IMP required separately classifying non-pipe-like facilities as distinct assessable segments to be assessed using the facility assessment process. During the inspection, Equistar was unable to provide any documentation showing that non-pipe-like facilities were separately considered from the segments with line pipe and pipe-like facilities.

In its Response, 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(b)(5) by failing to follow its IMP for identifying which pipeline segments could affect an HCA.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5), as quoted above.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to follow its IMP to determine the need for preventative and mitigative measures as required by § 195.452(f)(6).² Specifically, the Notice alleged that Equistar's IMP required the identification of potential preventive and mitigative measures, but Equistar was unable to provide any evidence to demonstrate the operator's actions to determine the need for potential preventative and mitigative measures in accordance with its IMP.

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(b)(5) by failing to determine the need for preventative and mitigative measures on its pipeline.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. § 195.452(b)(5).

¹ Section 195.452(f)(1) requires, among other things, that operators include in their IMP a process for identifying which pipeline segments could affect an HCA.

² Section 195.452(f)(6) requires, among other things, that operators include in their IMP the identification of preventive and mitigative measures to protect the HCA. *See also* § 195.452(i).

In its Response, Equistar stated that when PHMSA conducted its inspection, Equistar was the operator of the 8-inch, 6-inch, and 4-inch sections of the 35.3-mile propylene pipeline running from Orange, Texas to Lake Charles, Louisiana. Since the inspection, however, Equistar only operates the 6-inch and 4-inch sections. Therefore, Respondent stated that it would take the corrective actions proposed in the Notice with respect to only the 6-inch and 4-inch sections.

Having reviewed the evidence in the record, I find that on February 1, 2021, Respondent submitted a National Registry Notification on Form PHMSA F 1000.2 notifying PHMSA that it had ceased operatorship of the 8-inch propylene pipeline between Cameron County, Louisiana, and Orange, Texas, with operatorship having transferred to Enterprise Products Operating, LLC. Equistar noted further that it retained a 50 percent ownership of the line.

Under 49 U.S.C. § 60118(a), each person “owning or operating a pipeline facility” is required to comply with the applicable safety standards established under chapter 601. In addition, 49 C.F.R. § 195.2 specifies the term “operator” in the hazardous liquid pipeline safety regulations means “a person who owns or operates pipeline facilities.” Since Respondent continues to own the 8-inch pipeline at issue in this matter, Respondent continues to have an obligation to ensure compliance of that pipeline with the applicable safety regulations. Accordingly, Equistar must demonstrate to the Director compliance of the 8-inch, 6-inch, and 4-inch sections in a manner that satisfies the terms of the Compliance Order.

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:

1. With respect to the violation of § 195.452(b)(5) (**Item 1**), Respondent must reclassify the pipeline segments on the Orange, Texas to Lake Charles, Louisiana pipeline adhering to IMPL-003 or the current company procedure. Equistar must provide documentation to the Director demonstrating completion of this corrective action within 90 days of receipt of the Final Order.
2. With respect to the violation of § 195.452(b)(5) (**Item 2**), Respondent must follow IMPL-007 or the current company procedure to determine the need for preventive and mitigative measures on the Orange, Texas to Lake Charles, Louisiana pipeline. Equistar must provide documentation to the Director demonstrating completion of this corrective action within 90 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 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 3, 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. § 195.452(k) (**Item 3**) — Respondent’s alleged failure to measure the effectiveness of its IMP by conducting an evaluation of the program in 2019.

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, 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.

September 3, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued