

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

March 19, 2021

Michael VanDerSnick
Senior Vice President, Americas Manufacturing
Equistar Chemicals, L.P.
1221 McKinney Street
LBT - 7th Floor - 222
Houston, Texas 77010

CPF 4-2021-016-NOPV

Dear Mr. VanDerSnick:

From March 2, 2020 through October 15, 2020, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Equistar Chemicals, L.P.'s (Equistar) Orange to Lake Charles pipeline in Texas and Louisiana.

Based on the inspection, it is alleged that Equistar has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 195.452 - 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) ...
 - (5) **Implement and follow the program.**
 - (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;**

Equistar failed to follow its Integrity Management Program (IMP) for identifying which pipeline segments could affect a high consequence area as required by § 195.452(f)(1). Equistar's written IMP procedure, *Integrity Management Plan-Liquid Risk and Information Analysis, Section ID# IMPL-003, Original Issue Date 2/14/2005, Section 5.0 Requirements* provides procedures to separately classify non-pipe-like facilities as distinct assessable segments to be assessed using the facility assessment process specified in Section 5.3. During the inspection, Equistar provided PHMSA with records of the pipe segmentation and a risk analysis conducted on the Orange, Texas to Lake Charles, Louisiana pipeline. However, the documentation showed that non-pipe-like facilities were not separately considered from the segments with line pipe and pipe-like facilities as required by the operator's IMP.

2. **§ 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) ...

(5) Implement and follow the program.

(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) ...

(6) Identification of preventive and mitigative measures to protect the high consequence area (see paragraph (i) of this section);

Equistar failed to determine the need for preventive and mitigative measures on its Orange, Texas to Lake Charles, Louisiana pipeline. Equistar's written IMP procedure, *Integrity Management Plan-Liquid Preventive and Mitigative Measures, Section ID# IMPL-007, Original Issue Date 2/14/2005* requires the identification of potential preventive and mitigative measures for its pipelines in high consequence areas. PHMSA requested records during the inspection to demonstrate Equistar's actions to determine the need for potential preventive and mitigative measures in accordance with Equistar's *Preventative and Mitigative Measures, Section ID# IMPL-007* procedure. Equistar was unable to provide any documentation.

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

(a) ...

(k) *What methods to measure program effectiveness must be used?* An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

Equistar failed to measure the effectiveness of its IMP by conducting an evaluation of the program in 2019 as required by § 195.452(k). The last evaluation was conducted in 2018 and Equistar could not provide record that the required evaluation was conducted in 2019. Equistar provided a memo to PHMSA acknowledging the oversight and confirming plans to include the 2019 data with the 2020 evaluation.

Warning Items

With respect to Item 3, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Equistar Chemicals, L.P. 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. All material you 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).

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 4-2021-016-NOPV** 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 Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Equistar Chemicals, L.P. (Equistar) a Compliance Order incorporating the following remedial requirements to ensure its compliance with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to failure to follow its Integrity Management Program (IMP) to identify which pipeline segments could affect a high consequence area, Equistar 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 demonstrating completion of this corrective action within 90 days of receipt of the Final Order.

- B. In regard to Item 2 of the Notice pertaining to failure to follow its IMP to determine the need for preventative and mitigative measures, Equistar 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 demonstrating completion of this corrective action within 90 days of receipt of the Final Order.

It is requested (not mandated) that Equistar Chemicals, L.P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary 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.