

WARNING LETTER

VIA ELECTRONIC MAIL TO: mhurley@expl.com; Kbrown@expl.com

September 13, 2022

Mark Hurley
President and Chief Executive Officer
Explorer Pipeline Co.
P.O. Box 2650
Tulsa, Oklahoma 74136

CPF 3-2022-063-WL

Dear Mr. Hurley:

From June 7 through September 20, 2021, representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Explorer Pipeline Co.'s (Explorer) inspection system in Illinois, Missouri, Oklahoma, and Texas.

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

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a)
 - (c) **Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
 - (1) **Making construction records, maps, and operating history available as necessary for safe operation and maintenance.**

Explorer failed to maintain current maps and records of its pipeline system as required under § 195.402(c)(1). Specifically, Explorer did not have each valve and safety device labeled in the field. During emergency conditions, it is essential that pipeline valves can be identified quickly and accurately to facilitate a prompt and effective response to minimize the volume of hazardous liquid released in the event of failure, per procedures required by § 195.402(e)(4).

During a field visit, the technician was asked about the identification of a particular valve. This information was not readily available, per procedures required by § 195.402(c)(1).

The information was obtained from drawings online, but there was no service at this location so the identification of the valve was not able to be given until later in the day. It was noted during the field inspection that the identification of valves and safety devices were not handled consistently across the pipeline system. Some were identified by tags or markings on the device, and others were not. Explorer's operations and maintenance procedures did not address device identification on the device itself.

2. § 195.406 Maximum operating pressure.

(a)

(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

Explorer failed to provide adequate controls and protective equipment to control the pressure within one hundred ten percent (110%) of the operating pressure limit. Explorer's DOT Procedure Manual did not include requirements for locations not protected by equipment to control the pressure within one hundred ten percent (110%) of the operating pressure. Specifically, Revision 2.4 of the procedures did not address locations, as identified during field visits, without thermal over pressure protection between valves. Both the procedures and regulations require adequate controls and protective equipment to control the pressure, which includes thermal devices in areas that can be shut-in such as between valves. PHMSA would like some designation on drawings or on the valve to indicate that the valves are, in fact, normally open.

3. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Explorer failed to maintain the right-of-way (ROW) at an appropriate level for the type of patrols that were being done. During ROW inspections there were several areas noted by PHMSA as being overgrown with some areas having tree growth canopied over the pipeline.

Patrolling of rights-of-way is essential to help identify potential problems from third party activities along the pipeline and for leak detection. The surface conditions of the right-of-way and adjacent areas cannot be inspected by aerial patrolling if those areas are obstructed by an overhanging tree canopy.

4. § 195.452 Pipeline integrity management in high consequence areas.

(a)

(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);

(i) What preventive and mitigative measures must an operator take to protect the high consequence area?

(1) General requirements. An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

Explorer failed to establish an adequate procedure for the identification of preventative and mitigative (P&M) measures that is compliant with § 195.452(f)(6). The current processes, “Facility Integrity Management Plan,” last revised on 11/30/2021, and “Preventative and Mitigative Actions to Protect HCAs,” last revised on 11/23/2021, addressed both facilities and pipelines. These processes did not define time-frames for additional leak detection and emergency flow restricting device evaluations or state the documentation requirements, in accordance with § 195.452(l), for each evaluation. Additionally, many of the listed P&M measures were required per regulations and were not in addition to normal requirements based upon a risk analysis of that line segment.

5. §195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a)

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Explorer failed to ensure, through evaluation, that an individual performing a covered task was qualified. The individual who performed the pipeline right-of-way (ROW) foot patrols of Routes 11 and 12 had operator qualifications (OQ’s) that expired on February 15, 2021. Therefore, that individual had conducted the ROW foot patrols in 2021 with expired OQ’s.

6. §195.583 What must I do to monitor atmospheric corrosion control?

(a)

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

Explorer failed to give particular attention to interfaces and splash zones during atmospheric corrosion inspections. During PHMSA field inspections, it was noted that some valves were located in vaults filled with water. Personnel typically did not drain the water or remove the grating to look at the pipe below the grating during the atmospheric surveys. This does not allow for a thorough inspection of the transition and piping.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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.

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 correct the item(s) identified in this letter. Failure to do so will result in Explorer Pipeline Co. being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2022-063-WL**. 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).

Sincerely,

Gregory A. Ochs
Director, Central Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Kevin Brown, Manager, DOT and Regulatory Compliance, Explorer Pipeline Co.,
(kbrown@expl.com)