



By Electronic Mail

March 11, 2022

Ms. Mary McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
US Department of Transportation
8701 South Gessner, Suite 630
Houston, Texas 77074

**Re: CPF 4-2022-010-NOPV
Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order**

Dear Mrs. McDaniel:

Pursuant to 49 C.F.R. § 190.208, Energy Transfer Company (ETC or Company) submits this written response to a Notice of Probable Violation (NOPV), Proposed Civil Penalty (PCP) and Proposed Compliance Order (PCO), (collectively referred to as the “Notice”) issued on February 9, 2022 by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The PHMSA Notice alleges six (6) violations, two (2) of which were issued as Warning Items, includes a PCP in the amount of \$57,000, and includes a PCO requiring remedial actions to ensure compliance with the pipeline safety regulations.

On February 17, 2022, ETC requested PHMSA provide the Case File and Civil Penalty Worksheet as allowed by § 190.208(c) and § 190.209(b)(2) and Docket No. PHMSA 2016-0101. PHMSA provided these items via electronic mail on February 23, 2022.

By way of background, this NOPV was issued following an inspection of the ETC’s Lone Star NGL North Pipeline System located in Texas and New Mexico from March 1, 2021 through October 20, 2021. The NOPV provided for 30 days following receipt to submit written comments, thus this response is timely. ETC neither admits to nor denies the allegations and is providing this written response to explain the Company’s position and efforts to resolve the underlying issues identified in the NOPV.

Please note that this submission contains certain confidential business information and confidential security information that is protected from public disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Should PHMSA receive a FOIA request for this information, the Agency is required to notify ETC and provide the Company with an adequate opportunity to substantiate its claim, prepare redactions, and/or object, if warranted.



The Company appreciates PHMSA's review and consideration of this submission and shares PHMSA's commitment to pipeline safety, public safety, and pipeline integrity. Should you have any questions or concerns please contact me at (713) 989-7126 or via email at todd.nardozzi@energytransfer.com.

Sincerely,

**Todd
Nardozzi**

Todd Nardozzi

Director – Regulatory Compliance

Digitally signed by
Todd Nardozzi
Date: 2022.03.11
21:23:14 -06'00'

cc: Eric Amundsen, SVP Operations
Chris Lason, VP Asset Integrity
Mark Milliken, VP Tech Services
Heidi Slinkard, Chief Counsel

1. § 195.262 Pumping equipment.

(a) . . .

(d) Except for offshore pipelines, pumping equipment must be installed on property that is under the control of the operator and at least 15.2 m (50 ft) from the boundary of the pump station.

ETC failed to install pumping equipment at least 15.2 meters (50 feet) from the boundary of the pump station in accordance with § 195.262(d) and its written procedure, Pump Stations Design, Engineering Standard-Interstate/Intrastate, Document No. HL 8.0104 (Effective Date: 2/1/2020). The pumping equipment for the Lone Star NGL North Pipeline System at Pump Station 4 (LSX4), located approximately four (4) miles northeast of Morgan, Texas, was not installed 50 feet from the boundary of the pump station, but rather 38 feet.

During the field inspection from August 2, 2021 through August 12, 2021, PHMSA observed ETC personnel measure the distance from the base of the pumping equipment to the chain link fence at the boundary of the pump station, and it was found to be approximately 38 feet. Additionally, PHMSA measured the distance from the pumping equipment using the application, PIMMA Plus, and also found the measurement to be approximately 38 feet.

ETC provided its Pump Stations Design, Engineering Standard-Interstate/Intrastate, Document No. HL 8.0104 (Effective Date: 2/1/2020) procedure, which establishes the general design guidelines for pump stations and treating plants for hazardous liquids service. Section 4.2.1 Facility Spacing requires that fences are set at least one foot inside the property line, but does not include the requirement that pumping equipment be installed at least 15.2 meters (50 feet) from the boundary of the pump station in accordance with § 195.262(d). Section 4.2.1 Facility Spacing references ETC's ES HL 8.0502 Design Requirements for Facility Spacing (Revision date: November 11, 2015) procedure where Section 4.4 Pump Station and Plant Requirements lists the minimum spacing requirements for various buildings, equipment, and other items typically installed at pump stations and plants. Section 4.4 Pump Station and Plant Requirements identifies the spacing requirement for the pump or process building to the property line as a minimum of 50 feet.

Proposed Compliance Order

In regard to Item 1 of the Notice pertaining to installing pumping equipment on property under its control that is at least 50 feet from the boundary of that property, ETC must ensure that the pumping equipment installed at Pump Station #4 (LSX4) of the Lone Star NGL North Pipeline System is at least 50 feet from the boundary of the property. Updated drawings, pictures of the measurements, and any modification documentation showing compliance must be provided to PHMSA within **90** days of receipt of the Final Order.

ETC Response

The Company disagrees with the PHMSA finding of Probable Violation of § 195.262(d) and the Proposed Compliance Order associated with the same. The pumping equipment for the Lone Star NGL North Pipeline System at Pump Station 4 (LSX4), is in fact installed 57 feet from the boundary of Company controlled property. Further, the pumping equipment was installed in compliance with Pump Stations Design, Engineering Standard-Interstate/Intrastate, Document No. HL 8.0104, Section 4.2.1 and ES HL 8.0502 Design Requirements for Facility Spacing, Section 4.4.

During the PHMSA inspection only the distance from the base of the pumping equipment to the chain link fence was measured, which is not the property boundary. However, the facility has a barbed wire fence located at the property boundary along the northeast side of the facility. From the barbed wire fence the total distance from the pumping equipment to the site boundary measures 57 feet which exceeds the minimum 50-foot requirement of both § 195.262(d) and applicable Company Standards. The barbed wire fence was installed outside of the chain link fence on this side of the property to allow separate controlled access by a 3rd party power supply company which operates an electrical service transformer on the pump station property inside the barbed wire but outside the chain link fence. This configuration provides controlled access to the property for the 3rd party without giving the 3rd party access to the area inside the chain link fence. Nonetheless, overall access to the facility is under the control of the Company and the required distance from the pumping equipment to the property boundary is satisfied.

In response to the post-inspection preliminary findings, ETC provided PHMSA with a Site Plan Drawing of the LSX4 pump station which includes the chain link fence and the barbed wire fence located along the site boundary. The scale of this drawing is 1 inch = 50 feet. The distance on this drawing from the pumping equipment to the barbed wire site boundary fence is 1 3/16", which translates to more than 50 feet. ETC also provided to PHMSA the measurements from the barbed wire fence to the pumping equipment indicating that this distance was 57 feet. Attachment A of this submission includes the Site Plan Drawing and pictures of the measurements to the fence taken by the Company.

For the above reasons and information provided in Attachment A, the Company requests that PHMSA withdraw the Probable Violation of § 195.262(d) and the Proposed Compliance Order associated with the same.

2. § 195.403 Emergency response training.

(a) Each operator shall establish and conduct a continuing training program to instruct emergency response personnel to:

(1) . . .

(2) Know the characteristics and hazards of the hazardous liquids or carbon dioxide transported, including, in case of flammable HVL, flammability of mixtures with air, odorless vapors, and water reactions;

ETC failed to conduct a continuing training program to instruct emergency response personnel to know the characteristics and hazards of the hazardous liquids they transport as required by § 195.403(a)(2) and its Standard Operating Procedure, HLA.10, Emergency Response Training Exercises (Effective Date: May 21, 2020). Although ETC's Standard Operating Procedure Section 4.0 Frequency does not include provisions for training on the flammability of mixtures with air, odorless vapors, and water reactions, and does not reference HVLs, it does require personnel to "periodically, conduct either a functional exercise, drill, or tabletop to simulate emergency situations and subsequent company response activities." The drills conducted by ETC for the Northeast Texas Team of the Lone Star NGL North Pipeline System, which transports HVL, did not conduct adequate functional exercises, drills, or tabletops to simulate emergency situations and specific company response activities required for HVL.

ETC was unable to provide records of emergency response personnel training for the Northeast Texas Team of the Lone Star NGL North Pipeline System. Records provided during the inspection include calendar years 2019 and 2021 drill packages for the J. Nolan Pipeline, which transports diesel fuel. Emergency response training for HVL that forms a vapor cloud when released to the atmosphere cannot be substituted by emergency response training for a release of diesel to the atmosphere.

Proposed Compliance Order

In regard to Item 2 of the Notice pertaining to failing to conduct emergency response personnel training for the Northeast Texas Team of the Lone Star NGL North Pipeline System, ETC must conduct either a functional exercise, drill, or tabletop to simulate emergency situations and subsequent company response activities for the Lone Star NGL North Pipeline System and provide those records to PHMSA within **60** days of receipt of the Final Order.

ETC Response

ETC neither admits nor denies the allegation described in Item 2 of the NOPV related to Emergency Response Training. However, the Company requests that PHMSA reconsider the Proposed Civil Penalty calculation related specifically the components of "History of Prior Offenses" and "Good Faith" related to the efforts of ETC to comply with the requirements of § 195.403.

PHMSA indicates no history of prior violation of § 195.403 by the Company in the Pipeline Safety Violation Report yet PHMSA has assigned a point value of 5 to this item in the Civil Penalty Worksheet (Worksheet) which is commensurate with a history of 2 to 3 prior violations. ETC also researched enforcement history and found no instances of prior violation of § 195.403. ETC requests the point value in the Worksheet be revised to 0 (zero) as the Company has no history of prior violations of § 195.403.

With respect to the Good Faith element, ETC requests PHMSA assign a point reduction of up to -10 (negative 10) in acknowledgement the comprehensive drills and actual events that required the activation of the emergency response plan for the Northeast Texas Team of the Lone Star NGL North Pipeline System. As noted by PHMSA, the Company provided files which detailed prior drills or actual event responses that the Northeast Texas Team participated in or responded to. While these involved non-HVL products, they nonetheless demonstrated the successful use of the essential framework of a response to a release that would be utilized for an emergency drill or actual release of HVL from a pipeline system.

Additionally, ETC has undertaken measures, without admission, to satisfy the associated Proposed Compliance Order item. In September and October 2021, ETC conducted HVL-specific training and exercises for the Northwest and Northeast areas of the Lone Star Express pipeline system. Documentation for both training sessions and exercises are provided in Attachment B.

For the above reasons and information provided in Attachment B, the Company requests that PHMSA reduce the Proposed Civil Penalty and consider the Proposed Compliance Order to have been satisfied.

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.

ETC failed to inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year as required by § 195.412(a) for its Lone Star NGL North Pipeline System.

ETC provided aerial patrol records for calendar years 2018, 2019, 2020, and 2021 for the Lone Star NGL North Pipeline System. The Baden North Station to LSX2 pipeline segment within the Lone Star NGL North Pipeline System exceeded the 3-week requirement for patrols from June 12, 2018 to July 11, 2018. The gap between patrols is 29 days. The records provided show multiple patrol dates per week. When PHMSA questioned about the same pipeline being patrolled multiple days in the same week, ETC personnel claimed that its patrol tracking system counts each time a plane crosses over a pipeline. PHMSA inquired as to which dates were patrols and which dates were crossings. ETC personnel were unable to provide definitive answers on patrols versus crossings as shown on the patrol records provided. The records as presented do not allow adequate determination of compliance in that pipeline crossings, which are not patrols on or adjacent to each pipeline right-of-way, are counted as patrols.

ETC Response

ETC neither admits nor denies the allegation in the Warning Item described in Item 3 of the NOPV related to pipeline patrols of the Lone Star NGL North Pipeline System. The Company is confident that the Baden North Station to LSX2 station segment was patrolled in compliance with the applicable requirements of § 195.412 and Company procedures during the timeframe between June 12, 2018 to July 11, 2018.

ETC has undertaken measures to change how its patrol tracking system operates to prevent confusion within that system between pipeline crossings by patrol pilots and actual aerial patrols of specific pipeline segments. The program utilized to manage aerial patrols (Pilot Patrol) has been updated to allow the pilot to specify which pipeline systems they will be flying before takeoff and a new web portal will make the patrols visible after synchronization to the Pilot Patrol database. This will allow the pilots to modify the segments flown after the flight if different than what was specified prior to takeoff.

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) A process for identifying which pipeline segments could affect a high consequence area;

ETC failed to correctly identify and verify locations and boundaries of pipe segments that could affect high consequence areas (HCAs) in accordance with § 195.452(f)(1) and its Pipeline Integrity Management Plan (Revision Date: April 15, 2020), Section 3 Identification of Pipelines That Could Affect High Consequence Areas, which requires Field Operations personnel to conduct site-specific verifications of could affect HCA maps and locations.

During the field inspection of the Lone Star NGL North Pipeline System, PHMSA requested ETC Field Operations personnel identify HCAs in their areas of responsibility. Of the five teams, only one team identified two segments that could affect HCAs in their areas; however, there were five other segments that could affect HCAs for that team that they did not identify.

HCA Mileage and Location records provided by ETC show a total of 40 segments that could affect HCAs, of which only two were correctly identified by Field Operations personnel.

Proposed Compliance Order - In regard to Item 4 of the Notice pertaining to Field Operations personnel's awareness of HCAs in their areas and their role in the verification process, ETC must conduct training for Field Operations personnel on the locations of the HCA segments and facilities in their areas of responsibility and their role in the HCA verification process, and provide those training records to PHMSA within **60** days of receipt of the Final Order.

ETC Response

ETC disagrees with the PHMSA finding of Probable Violation of § 195.452(f)(1) which requires an Operator's Integrity Management Program to have a process for identifying which pipeline segments could affect a high consequence area (HCA). PHMSA has presented no evidence in support of a finding that indicates any HCA direct impact or could affect area along the Lone Star NGL North pipeline system was not identified properly in compliance with § 195.452(f)(1) and with the ETC Hazardous Liquid IMP (IMP).

During the course of the inspection, the Company provided PHMSA with a tabular listing of all HCA segments of the Lone Star NGL North pipeline system¹ which substantiates that the Company had identified the could affect HCA areas. To indicate otherwise and to do so seemingly based upon the fact that Field Operations personnel could not identify all could affect HCA segments while standing in the field during a field inspection with PHMSA is not supportive of a finding of violation of § 195.452(f)(1) and would have no effect on the overall could affect HCA segment identification process as described in Section 3.3 of the IMP. Section 3.3 of the IMP indicated that Field Operations would conduct site-specific verifications of could affect HCA maps and locations as a component of the overall refinement in the process of identification. This does not mean that Field Operations personnel are required to be able to identify each segment while standing in the field and without reference to maps or web-based mapping programs.

Instead, Field Operations personnel are provided with access to both HCA maps of each system in addition to a web-based mapping system maintained by the Company which can display direct impact HCA areas by overlaying centerlines with the HCA polygons supplied to hazardous liquid operators by PHMSA/NPMS and could affect HCA areas determined by spill and plume dispersion modeling accomplished by the Company. As described above, the HCA segments along the Lone Star NGL North pipeline system had been properly identified. The fact that Field Operations personnel could not identify all could affect HCA segments without referencing HCA maps or the web-based mapping system is not supportive of the PHMSA finding that the Company failed to correctly identify the segments of the Lone Star NGL North pipeline system that could affect HCAs.

For the above reasons, the Company requests that PHMSA withdraw this Probable Violation and the Proposed Compliance Order associated with the same.

¹ 21-199751 ExhibitE-3 of the Pipeline Safety Violation Report

5. § 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);

(7) . . .

(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.

ETC's records failed to demonstrate its process for identifying threats by conducting segment risk analysis, and failed to demonstrate the identification, evaluation, and implementation for preventive and mitigative measures (P&MMs) in accordance with § 195.452(f)(6), § 195.452(i)(1) and its Pipeline Integrity Management Plan (Revision Date: April 15, 2020). Section 4.6 Facility Threat/Risk Analysis and Preventive and Mitigative Measures requires that all threat concerns be prioritized by risk and proposed preventive and/or mitigative measures be developed, including a time frame to address each concern.

Section 8 Provisions for Preventive and Mitigative (P&M) Measures of the Pipeline Integrity Management Plan requires ETC to "take measures to prevent and/or mitigate the consequences of a pipeline failure in an HCA beyond those required in the Company SOPs," and to "identify the location-specific threats when evaluating additional preventive and mitigative actions for those locations." Additionally, Section 8 requires use of "risk analysis to identify preventive and mitigative actions to be taken that address the significant threats."

ETC provided Integrity Segment Summaries (ISSs) for the Baden North to LSX2, LSX2 to LSX3, and LSX3 to LSX4 segments of the Lone Star NGL North Pipeline System. For the 2021 risk analysis and the three ISS records reviewed, risks/threats identified include third party damage and external corrosion. Following the risk analysis, ETC failed to list all threat concerns prioritized by risk and failed to develop proposed preventive and/or mitigative measures and time frames to address each threat.

Proposed Compliance Order - In regard to Item 5 of the Notice pertaining to conducting a risk analysis to identify threats for pipeline segments, preventive and mitigative measures to address those threats, and the failure of Section 8 Provisions for Preventive and Mitigative (P&M) Measures of ETC's Pipeline Integrity Management Plan to identify when a threat is significant to warrant implementation, ETC must amend its procedure to identify when an identified threat is significant enough to warrant implementation. ETC must also review the most recent risk analysis for the Lone Star NGL North Pipeline System, prioritize threats identified, and determine appropriate P&MMs to address those threats. The amended procedure and the P&MM analysis must be provided to PHMSA within **60** days of receipt of the Final Order.

ETC Response

ETC neither admits nor denies the allegation described in Item 5 of the NOPV related to pipeline integrity management in high consequence areas and specifically, the prioritization of identified risk factors and implementation of appropriate preventive and mitigative measures and is not contesting the finding of probable violation of § 195.452(f)(6) and § 195.452(i)(1) nor the requirements of the Proposed Compliance Order.

As noted by PHMSA, ETC did carry out the segment risk analysis for the entirety of the Lone Star NGL North pipeline system and will continue to do so at the required frequency specified in both the Company IMP and in compliance with applicable sections of § 195.452. In order to comply with the requirements of §§ 195.452(f)(6) and 195.452(i)(1), the Company IMP, and to satisfy the components of the PCO, the Company will complete the specified actions contained in the PCO and submit documentation of such to PHMSA with 60 days of receipt of the Final Order.

6. § 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(h) What actions must an operator take to address integrity issues?

(1) . . .

(4) Special requirements for scheduling remediation-

(i) Immediate repair conditions. An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce the operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using

the formulas referenced in paragraph (h)(4)(i)(B) of this section. If no suitable remaining strength calculation method can be identified, an operator must implement a minimum 20 percent or greater operating pressure reduction, based on actual operating pressure for two months prior to the date of inspection, until the anomaly is repaired. An operator must treat the following conditions as immediate repair conditions:

(A) Metal loss greater than 80% of nominal wall regardless of dimensions.

ETC failed to implement immediate repair conditions following the identification of a condition that would require the temporary reduction in operating pressure until repairs could be made. Specifically, ETC could not provide records to demonstrate that a temporary reduction in operating pressure was made as required to maintain safety and address integrity issues in accordance with § 195.452(h)(4)(i)(A) for its Baden North to LSX2 segment of the Lone Star NGL North Pipeline System.

ETC provided the ISS for the Baden North to LSX2 pipeline segment. The Dig List for the assessment showed two anomalies with metal loss greater than 80 percent of nominal wall regardless of dimensions. The original ISS document provided by ETC during the inspection stated that there was no pressure reduction taken for the two immediate anomalies found as a result of this assessment. Subsequent documents were provided to PHMSA to support ETC's assertion that a pressure reduction was taken for the Baden North to LSX2 pipeline segment since a pressure reduction was taken on the LSX2 to LSX3 segment and the two segments were assessed at the same time; however this information could not be verified based on the documents provided.

The ISS was further amended to say that ETC forgot to include the Baden North to LSX 2 pipeline segment pressure reduction in MOC # 5005, which is a record of the LSX2 to LSX3 segment pressure reduction. ETC believes that a pressure reduction was taken for the Baden North to LSX2 pipeline segment, but does not have any records to prove that the pressure reduction was taken as required.

ETC Response

ETC neither admits nor denies the allegation in the Warning Item described in Item 6 of the NOPV related to a temporary pressure reduction in operating pressure to maintain safety while addressing certain integrity issues on the Baden North to LSX2 and LSX2 to LSX3 segments of the Lone Star NGL North pipeline system. The Company is confident that the pressure reduction documented in MOC # 5005 was inclusive of the Baden North to LSX2 segment and there was no impact to pipeline safety during the timeframe from discovery of the metal loss features until such time the features were permanently repaired.

ETC is committed to following SOP HLA.03 "Management of Change" and ensuring MOCs contain enough detail to avoid the circumstances identified during the 2021 PHMSA inspection. A copy of SOP HLA.03 is included with this response as Attachment C.