U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

8701 S. Gessner, Suite 630
Houston TX 77074

NOTICE OF PROBABLE VIOLATION, PROPOSED CIVIL PENALTY, and PROPOSED COMPLIANCE ORDER

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

February 9, 2022

Greg McIlwain
Senior Vice President, Operations
Energy Transfer Company
1300 Main Street
Houston, Texas 77002

CPF 4-2022-010-NOPV

Dear Mr. McIlwain:

From March 1, 2021 through October 20, 2021, a 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 Energy Transfer Company's (ETC) Lone Star NGL North Pipeline System located in New Mexico and Texas.

As a result of the inspection, it is alleged that ETC 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. **§ 195.262 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.

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.

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.

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.

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.

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.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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 violations 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 violations 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 violations 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 violations 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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of $57,700 as follows:

Item number	PENALTY
2	$ 57,000

Warning Items

With respect to Items 3 and 6, 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 these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Items 1, 2, 4, and 5 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to ETC. 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 Enforcement 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 4-2022-010-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

MARY LOUISE MCDANIEL

Digitally signed by MARY LOUISE MCDANIEL
Date: 2022.02.09 04:57:29 -06'00'

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

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

cc: Todd Nardozzi, Director, Regulatory Compliance, Energy Transfer Company, todd.nardozzi@energytransfer.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Energy Transfer Company (ETC) a Compliance Order incorporating the following remedial requirements to ensure compliance with the pipeline safety regulations:

A. 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.

B. 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.

C. 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.

D. 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.

It is requested (not mandated) that Energy Transfer Company maintain 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.