



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL

April 20, 2023

Fred Hampton
Vice President
Valero Terminaling and Distribution Company
One Valero Way
San Antonio, Texas 78249

CPF 4-2023-031-NOPV

Dear Mr. Hampton:

From May 16 to June 24, 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Valero Terminaling and Distribution Company's (Valero) transmission pipeline system in Alsip, Illinois and Hammond, Indiana.

As a result of the inspection, it is alleged that Valero has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.). The items inspected and the probable violations are:

1. § 195.505 Qualification program.

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

(a)

(i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the administrator or state agency has verified that it complies with this section. Notifications to PHMSA may be submitted by electronic mail to

**InformationResourcesManager@dot.gov, or by mail to ATTN:
Information Resources Manager DOT/PHMSA/OPS, East Building,
2nd Floor, E22-321, New Jersey Avenue SE., Washington, DC 20590.**

Valero failed follow its written qualification program in accordance with § 195.505. Specifically, Valero failed to notify the Texas Railroad Commission (TRRC) of significant modifications of its Operator Qualification Program (OQ Program) in 2021 in accordance with § 195.505 and section 2.7.2 of its Operator Qualification (OQ) Program.

Valero significantly modified its OQ program July 2021 and notified PHMSA, the Louisiana Department of Natural Resources, the California Office of the State Fire Marshall, and the Oklahoma Corporation Commission. However, Valero failed to notify the TRRC.

Therefore, Valero failed follow its written qualification program in accordance with § 195.505.

2. § 195.573 What must I do to monitor external corrosion control?

(a)

(d) Breakout tanks. You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API RP 651 (incorporated by reference, *see* § 195.3). However, this inspection is not required if you note in the corrosion control procedures established under § 195.402(c)(3) why complying with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.

Valero failed to inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank in accordance with § 195.573(d). Specifically, Valero failed to inspect the cathodic protection system on the bottom of aboveground breakout tank #1 at Hammond terminal for calendar years 2019 and 2021. Valero inspected the cathodic protection system on breakout tank #1 on May 14, 2020, and many of the cathodic protection readings were below criteria.

Therefore, Valero failed to inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank in accordance with § 195.573(d).

3. § 195.583 What must I do to monitor atmospheric corrosion control?

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

Valero failed to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months, in accordance with § 195.583(a). Specifically, for the East Chicago 12-inch pipeline, Hammond 8-inch pipeline, and 6-inch Natural Gasoline pipeline, Valero conducted atmospheric corrosion inspections at a 41-month interval.

Therefore, Valero failed to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months, in accordance with § 195.583(a).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 C.F.R. § 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 \$2,391,412 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 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 documents involved in this case and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Valero Terminating and Distribution Company. Please refer to the *Proposed Compliance Order*, which is attached and made a part of this Notice.

Warning Items

With respect to Items 1 and 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 these items. Failure to do so may result in additional enforcement action.

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. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 C.F.R. § 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 4-2023-031-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
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 Valero Terminals and Distribution Company (Valero) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Valero with the pipeline safety regulations:

- A. Regarding Item 2 of the Notice pertaining to Valero's failure to inspect the cathodic protection system used to control corrosion on the bottom of its above-ground breakout tank #1 at Hammond terminal, Valero must inspect the cathodic protection system for breakout tank #1 at the Hammond terminal and submit the test inspection report to Director, Southwest Region within **30** days of the issuance of the Final Order.

It is requested (not mandated) that Valero maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, 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.