



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 TO: vrosa@nesmidstream.com

October 30, 2024

Vidal Rosa
Executive Vice President of Operations
Navigator Energy Services
2807 Allen Street #833
Dallas Texas 75204

CPF 4-2024-052-NOPV

Dear Mr. Rosa:

From March 4 to 8, March 11 to 14, and May 13 to 17, 2024, of the on-site inspection, 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 Navigator Borger Express, LLC's¹ (Navigator) crude oil pipeline system in Oklahoma and Texas.

As a result of the inspection, it is alleged that Navigator 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.**

Navigator failed to install its onshore pumping equipment 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 in accordance with § 195.262(d). Specifically, Navigator's pumping equipment at its Canadian Station is approximately 24.617 feet from the western fence line that marks the boundary of the pump station.

¹ Navigator Borger Express, LLC, is an affiliate of Navigator Energy Services.

During the inspection, PHMSA inspectors observed that the distance from the pump at Navigator's Canadian Station did not appear to be at least 50 feet from the nearby fence towards the west. PHMSA estimated the distance between the west fence line and the pumping equipment to be approximately 24.617 feet using PIMMA plus measurements.

2. § 195.49 Annual report.

Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. An operator must submit the annual report by June 15 each year, except that for the 2010 reporting year the report must be submitted by August 15, 2011. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, carbon dioxide pipelines, and fuel grade ethanol pipelines. For each state a pipeline traverses, an operator must separately complete those sections on the form requiring information to be reported for each state.

Navigator failed to complete and submit annually DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year in accordance with § 195.49. Specifically, Navigator failed to accurately report the total mileage that could affect a High Consequence Area (HCA) for its Texas crude oil interstate pipeline for reporting years 2022 and 2023 (submitted in 2023 and 2024, respectively). During the inspection, Navigator provided its HCA map for the Borger Express pipeline, which shows that the pipeline crosses areas that could affect HCAs in Texas.

Therefore, Navigator failed to accurately report its total mileage that could affect HCA in its DOT Form PHMSA F 7000-1.1 submitted for calendar years 2022 and 2023 in accordance with § 195.49. The operator provided supplemental reports reflecting the correct HCA mileage for both 2022 and 2023 on August 6, 2024.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$266,015 per violation per day the violation persists, up to a maximum of \$2,660,135 for a related series of violations. For violation occurring on or after January 6, 2023 and before December 28, 2023, the maximum penalty may not exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not 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 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.

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 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Navigator. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to Item 2 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.

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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2024-052-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

**BRYAN JEFFERY
LETHCOE**

Digitally signed by BRYAN
JEFFERY LETHCOE
Date: 2024.10.30 09:19:50 -05'00'

Bryan Lethcoe

Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

cc: Vanessa Romero, EHS Regulatory Manager, Navigator Energy Services,
vromero@nesmidstream.com

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

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Navigator Borger Express, LLC, a Compliance Order incorporating the following remedial requirements to ensure the compliance of Navigator Borger Express, LLC, with the pipeline safety regulations:

- A. Regarding Item 1 of the Notice pertaining to Navigator's failure to have its pumping equipment at the Canadian Station pump at least 15.2 m (50 ft) away from the boundary of the pump station, Navigator must modify the fencing so that the pumping equipment is at least 15.2 m (50 ft) from the boundary of the pump station. Navigator must provide records showing that there is at least 15.2 m (50 ft) between the pumping equipment and the boundary of the pump station on all sides of the pumping equipment to the Director, Southwest Region, PHMSA, within **60** days of receipt of the Final Order.
- B. It is requested (not mandated) that Navigator 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.