



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

NOV 24 2010

1200 New Jersey Ave., SE  
Washington, DC 20590

**VIA CERTIFIED MAIL AND FACSIMILE TO: (713) 381-4790**

Mr. Terry L. Hurlburt  
Senior Vice President-Operations  
Enterprise Products Partners LP  
1100 Louisiana Street  
Houston, Texas 77002-5227

**Re: CPF No. 1-2010-5008H**

Dear Mr. Hurlburt:

Enclosed please find an Amended Corrective Action Order issued in the above-referenced case. It requires Texas Eastern Products Pipeline Company, LLC, a subsidiary of Enterprise Products Partners LP, to take certain corrective actions with respect to the Line P-41 propane pipeline that runs from Watkins Glen to Selkirk, NY. Service of this Order by electronic transmission is effective upon transmission, in accordance with 49 C.F.R. § 190.5.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosures: Amended Corrective Action Order  
Copy of 49 C.F.R. § 190.233

cc: Mr. Byron Coy, Director, Eastern Region, PHMSA  
Mr. Alan Mayberry, Deputy Associate Administrator for Pipeline Safety, PHMSA  
Mr. Gavin Nicoletta, Chief-Safety Section, New York State Department of Public Service

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590**

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<b>In the Matter of</b>	)	
	)	
<b>Texas Eastern Products Pipeline Company, LLC (“TEPPCO”),</b>	)	<b>CPF No. 1-2010-5008H</b>
	)	
<b>a subsidiary of Enterprise Products Partners LP,</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

**AMENDED CORRECTIVE ACTION ORDER**

**Background and Purpose**

At approximately 5:17 p.m. EDT, on August 27, 2010, a failure occurred on TEPPCO’s 8-inch Line P-41 at Mile Post (MP) 133.9 along Keyserkill Road in Gilboa, New York (Schoharie County), resulting in a release of propane causing the evacuation of local residents in a three-mile area (“Failure”). Local residents first detected the Failure and phoned the operator. The incident was reported to the National Response Center (NRC Report No. 952328) at 6:52 p.m. EDT on August 27, 2010.

The cause of the Failure has not yet been determined. Pursuant to 49 U.S.C. § 60117, the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), in conjunction with the New York State Department of Public Service Safety Section (“NYS DPS”), has initiated an investigation of the incident.

On September 2, 2010, PHMSA issued TEPPCO a Corrective Action Order (“CAO”) under 49 U.S.C. § 60112 and 49 C.F.R. § 190.233, finding that Line P-41 was hazardous to the public, property, and the environment and requiring Respondent to take certain corrective actions.

On September 28, 2010, a hearing was held in Washington, DC. TEPPCO presented evidence and testimony, but did not dispute any of the findings in the CAO or the need for corrective action during that proceeding. The presiding official issued an order later that same day honoring the parties’ request to suspend the hearing for the gathering of additional information, subject to the submission of regular reports on the status of those activities.

On November 15, 2010, the parties submitted a joint status report and recommendation for the disposition of this matter. The presiding official ordered the hearing terminated and closed the record shortly thereafter.

I have reviewed the evidence of record and am affirming the finding in the September 2, 2010 CAO that the operation of the section of Line P-41, without corrective measures, would be hazardous to life, property, and the environment.

I am also issuing this Amended CAO (“ACAO”) under the authority provided in 49 U.S.C. § 60112 and 49 C.F.R. § 190.233. Consistent with the parties’ joint recommendation and the evidence presented at hearing, including additional information about the Failure and the condition of Line P-41, the ACAO requires Respondent to take necessary corrective action to protect the public, property, and the environment from the potential hazards associated with the Failure.

### **Findings**

- TEPPCO is the operator of the 164.76-mile Line P-41 that transports liquid propane through an 8-inch pipe from Watkins Glen, NY, MP 0.00, to Selkirk, NY, MP 164.76 (the “Affected Pipeline Facility”). TEPPCO is owned by Enterprise Products Partners LP.
- TEPPCO operates approximately 9,425 miles of hazardous liquid pipeline consisting of 5,802 miles of interstate hazardous liquid pipelines and 3,623 miles of intrastate hazardous liquid pipelines. The TEPPCO system includes crude oil lines in Texas and Oklahoma, and product pipelines (including propane) that run from south Texas to the northeast United States.
- The section of Line P-41 involved in the Failure was constructed in 1963 and is composed of 8-inch nominal diameter, 0.203-inch wall thickness, Grade X42, pre-1970, Low Frequency – Electric Resistance Welded (“LF-ERW”) pipe, manufactured by Bethlehem Steel. It has a tar tape coating and is cathodically protected with an impressed current system.
- The established maximum operating pressure (“MOP”) of the Affected Pipeline Facility ranges from 1,320 to 1,423 pounds per square inch gauge (“psig”). The actual operating pressure of the line at the time of the accident was approximately 600 psig at the Selkirk Terminal, with an approximate pressure at the Failure location of 279 psig and a 474 psig pressure at the north Blenheim mainline valve.
- The Failure resulted in the release of an undetermined amount of liquid propane, which did not ignite. The spill resulted in the closure of Keyserkill Road. Emergency responders from Schoharie County and surrounding communities responded to the scene and evacuated an initial 3-mile area which included 15 residences, of which two (2) residences were within 0.25 miles of the Failure location. Twenty-three people were housed in local hotels and later returned to their homes when the area became safe. There were no injuries, fatalities or property damage resulting from the Failure.

- Following the Failure, TEPPCO's personnel initiated an emergency shutdown of Line P-41, including the closure of isolation valves at MP 129.7 (upstream) and MP 139.9 (downstream) of the Failure site. Line P-41 remains out of service from Watkins Glen to Selkirk, NY.
- Preliminary excavations on September 1, 2010, and visual examinations of the pipe at the Failure location, MP 133.9, indicate that the failure was in the bottom portion of a pipe girth weld. The girth weld is located approximately five (5) feet outside from the end of the casing pipe. The failed section of pipe and girth weld will be transported to a metallurgist for failure analysis. A preliminary evaluation of available data from the June 2008 ILI indicates that metal loss anomalies were present on Line P-41 in the vicinity of the rupture. TEPPCO's records indicate that the operator performed an integrity dig, associated with 49 CFR § 195.452, at the Failure location, Mile Post 133.9 in Schoharie County, New York, to examine the anomalies just days before the incident occurred. TEPPCO's pipe inspection determined that no defect repair was necessary and upon which time the pipe was re-coated. A preliminary analysis has indicated that the Failure was caused by stress corrosion cracking, combined with the overburden pressure from the soil placed atop the pipeline at the completion of the pipe inspection.
- Line P-41, approximately 164.76 miles long, was internally inspected in June 2008 with a high resolution ID/OD magnetic flux leakage ("MFL") tool. Anomalies identified resulted in a pressure restriction on four (4) segments of Line P-41 in May of 2010. The MOP in the section of line that includes the failure location was reduced from 1359 psi to 1208 psi.
- TEPPCO informed PHMSA that anomalies in two (2) segments, identified above from the 2008 inline inspection ("ILI"), have not been remediated as of August 27, 2010. PHMSA has requested additional information from TEPPCO regarding these anomalies.

### **Determination of Necessity for Corrective Action Order**

The bases for determining whether a pipeline facility requires corrective action are specified in 49 U.S.C. § 60112 and 49 C.F.R. § 190.233. The Associate Administrator found in the September 2, 2010 CAO that the operation of the section of Line P-41, without corrective measures, would be hazardous to life, property, and the environment. He also issued the CAO without notice and the opportunity for a hearing, based on his finding that a failure to do so expeditiously would likely result in serious harm to life, property or the environment. TEPPCO has not disputed any of these findings and was afforded a hearing after the issuance of the CAO.

After reviewing the evidence of record, I am affirming the determinations in the CAO that the operation of the section of Line P-41, without corrective measures, would be hazardous to life, property, and the environment; and that the failure to issue the CAO expeditiously would likely have resulted in serious harm to life, property, or the environment.

### **Required Corrective Action**

Pursuant to 49 U.S.C. § 60112, I hereby order TEPPCO to immediately take the following corrective actions with respect to the Affected Pipeline Facility:

1. Immediately cease all transportation of hazardous liquid through the Affected Pipeline Facility.
2. Prior to resuming operation of the Affected Pipeline Facility, develop and submit a written repair and re-start plan (“Repair and Restart Plan”) for approval to the Director, Eastern Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 103, West Trenton, New Jersey 08628 (“Director”). Following the Director’s receipt of the Repair and Restart Plan, the Director shall issue an approval or identify to TEPPCO specific deficiencies in the Repair and Restart Plan that must be addressed before the Repair and Restart Plan will be approved. The terms of that Repair and Restart Plan must, at a minimum, include the following provisions:
  - A. Exposing of Line P-41, for a total of 40-feet and include a minimum of 3-feet beyond a girth weld on the upstream casing side of the Failure and a minimum of 3-feet on the downstream side of the Failure to examine for corrosion, coating condition, collateral damage, girth weld cracking, pipe buckling, and other issues. Exposing the pipe, removing all of the casing, and transporting the failed carrier pipe including the failed girth weld and an additional acceptable girth weld for mechanical and metallurgical testing. The carrier pipe shall be removed from the casing and the casing discarded. Repair or replace pipe and coating as necessary. Upon completion of pipe replacement and repairs, ensure proper coating, pipe support, backfill, and protection from stones and rocks. PHMSA recognizes that TEPPCO has satisfactorily completed the work required by this Item 2(A);
  - B. Making all additional excavations and repairs on the Affected Pipeline Facility that are required to ensure safe operations based upon the findings of the excavation and repair of the failure at Mile Post 133.9 and submit any findings to the Director. TEPPCO must repair the MOP-impacting anomalies on the two (2) segments from the 2008 ILI inspection, as described above, that have not yet been remediated and submit findings of their condition and all repairs to the Director. All excavations and repairs required by this Item 2(B) shall include non-destructive examination in accordance with 49 C.F.R. § 195.228 of the nearest girth weld on either side of the anomaly excavated and all girth welds exposed during the excavation. TEPPCO must evaluate the five (5) excavations performed in 2010 prior to the Failure to determine if the pipe supports implemented were consistent with the support placement requirements in the attached “Supplement to Excavation and Backfill for the P41 Pipeline” (Appendix B). Where it is determined that pipe supports were not implemented as noted above, the location(s) shall be re-excavated and action taken to ensure the pipe on either side of exposed girth welds is supported and no unsupported pipe span exceeds 10 feet. All re-excavations required to address pipe support for this Item 2(B) shall include non-destructive examination in accordance with 49 C.F.R. § 195.228 of all girth welds exposed during the excavation and the nearest accessible girth weld on either side of the excavation. The results of the evaluation and any re-excavations shall be submitted to the Director.

- C. Conducting a 125 percent Maximum Operating Pressure (“MOP”) hydrostatic test of each segment of the entire Affected Pipeline facility (Line P-41 from Watkins Glen, NY, MP 0.00 to Selkirk, New York MP 164.76), in accordance with 49 C.F.R. Part 195, Subpart E and the Hydrostatic Test Plan attached hereto as Appendix A of this ACAO.
- D. Ensuring adequate cathodic protection for the area where the Failure, occurred by establishing a new, permanent electrical test station with an above-grade test point in a protected location. Once backfill and land settling has occurred, ensuring pipe-to-soil readings are within applicable criteria.
- E. Completing mechanical and metallurgical testing and failure analysis of the failed pipe, including analysis of soil samples and any foreign materials. The testing and analysis must be completed as follows:
  - i. Prior to commencing the mechanical and metallurgical testing, provide the Director with the scheduled date, time, and location of the testing, in order to provide an opportunity for a PHMSA representative to witness the testing;
  - ii. Document the chain-of-custody when handling and transporting the failed pipe section and other evidence from the Failure site;
  - iii. Utilize the mechanical and metallurgical testing protocols, including the testing laboratory approved by the Director and include the below in the testing protocol for the failed weld, acceptable (non-failed) girth weld, and pipe:
    - a. Test weld metal (WM), Heat Affected Zone (“HAZ”), and base metal (“BM”) toughness, using either Charpy V-Notch or CTOD SENB 2x2B with the notch orientated across the thickness, (i.e., toughness test specimens must be evaluated to ensure that the test specimens are located in the applicable area identified for testing.)
    - b. WM & BM chemistries,
    - c. WM, HAZ, and BM Vickers hardness including the WM root, fill & cap pass regions,
    - d. Weld and pipe misalignment,
    - e. Weld stress concentration factor due to actual measured weld geometry and misalignment to the pipe,
    - f. Pipe wall thickness, and
    - g. Pipe and acceptable weld mechanical and chemical properties

- iv. TEPPCO must perform the above Item 2(E)(iii)(a) through (g) on the following new welds and compare the results to the failed weld, acceptable (non-failed) girth weld, and pipe:
    - a. An “acceptable” girth weld, which has been completed using the Weld Procedure Specification (“WPS”) and line pipe, and
    - b. Weld a new girth weld, new weldolet, and new Type B sleeve installation using current TEPPCO WPS.
  - v. Ensure that the testing laboratory distributes all resulting reports in their entirety (including all media), whether draft or final, to the Director at the same time as they are made available to Respondent. After TEPPCO has completed the actions set forth in Item 2(A), (B), (D), and (E), and has successfully completed the hydrostatic test on one or more individual segments of Line P-41, pursuant to the Hydrostatic Test Plan, incorporated by reference as Appendix A to the ACAO, TEPPCO shall submit a review of the work performed and notify the Director of its intent to return that segment(s) to service. Following the Director’s receipt of TEPPCO’s notification, the Director shall issue an approval for the resumption of service or identify to TEPPCO specific deficiencies that must be addressed before the resumption of service will be approved.
3. All imperfections and anomalies, including those in both high consequence areas and non-high consequence areas on the Affected Pipeline Facility that are: equal to or greater than 50-percent wall loss, or have a failure pressure ratio (FPR) of less than 1.39, or do not meet 49 C.F.R. § 195.452(h)(4)(i), (ii), and (iii) must be excavated, remediated and/or repaired within 180 days of receipt of the ACAO, unless a shorter excavation, remediation, and/or repair time is required under 49 C.F.R. Part 195. Unity charts, confirmation excavations of ILI results, and corrosion growth rates must be used to determine the quality and integrity of the excavations, evaluations, and repairs. The results of the excavations and repairs shall be submitted to the Director.
  4. Within 60 days of the receipt of the ACAO, submit the following information to the Director.
    - A. All ILI, excavation, repair, and backfill procedures and findings regarding the condition of the pipe at Mile Post 133.9 prior to the Failure, including all safe pressure calculations and reports, corrosion survey reports, dig reports and operator qualification (“OQ”) reports for all TEPPCO personnel involved in the recent work at Mile Post 133.9.
    - B. All ILI results, excavations, excavation findings, repairs, procedures used in excavations and repairs, list of findings and all anomalies unexcavated, excavated or repaired, ILI interaction criteria used to evaluate findings, repair procedures

used to evaluate findings and used to determine safe pressures of the findings, safe pressures calculations of all findings, or any other information received from the ILI runs performed in 2008 on the Affected Pipeline Facility.

- C. The most recent close interval survey finding and annual test site survey readings and casing survey readings for the years 2007, 2008, 2009 and 2010 (if related 2010 activities have already been performed) showing the date of each survey reading on the Affected Pipeline Facility.
- D. For the 2008 ILI data, unity charts, and confirmation excavations of ILI results, close interval survey results, test station survey results, excavation results, and identification of all integrity threats on the Affected Pipeline Facility, including integrity threat data integration.
- E. Findings from a review of all O&M Plan procedures used for the excavation, evaluation, repair, pipe support, backfilling, and personnel training of the pipeline at the site of the Failure.
- F. Any procedural changes resulting from a review of the findings from past failures on the Affected Pipeline Facility from 1980 until the issuance of this ACAO designed to ensure that the O&M Plan procedures are technically sound to ensure safety.
- G. The results of a comparative analysis of the 2003 ILI results, the 2008 ILI results, and the 2010 excavation findings to substantiate and adopt a corrosion growth rate, and to help validate the 2008 ILI results of the portion of the Affected Pipeline Facility from Oneonta Terminal (MP 95) to the Selkirk Terminal (MP 164.76).
- H. TEPPCO's program documentation and evaluation results of an analysis of the entire Affected Pipeline Facility for public awareness of the pipeline as required in 49 C.F.R. § 195.440 for the years 2007, 2008, 2009, and 2010.
- I. Any results or information received from the ILI tool runs performed in 2008 on the Affected Pipeline Facility, including information obtained from the resulting excavations and all associated re-coats and repairs, to the Director. Make any ILI results or information from these tool runs not yet received from the ILI tool vendor available to PHMSA at the same time as the ILI vendor makes them available to Respondent. Within 60 days of receipt of this ACAO, re-analyze all of this information, using the conservative ILI interaction criteria, for the purpose of determining whether any anomalies were present that could have contributed to the Failure and whether any other anomalies of a similar magnitude or similar characteristics are present elsewhere on the Affected Pipeline Facility. Make the results of the ILI analysis available to the Director.

5. Within 60 days of its receipt of the ACAO, TEPPCO shall submit to the Director a written plan to determine the presence of circumferentially-oriented defects (“CO Defect Detection Plan”) within the Affected Pipeline Facility, for the Director’s approval. Following the Director’s receipt of TEPPCO’s CO Defect Detection Plan, the Director shall issue an approval of the written plan or identify to TEPPCO specific deficiencies that must be addressed before the written plan will be approved.

The CO Defect Detection Plan must address all known factors that caused the Failure, conditions which are likely to cause the formation of circumferentially-oriented defects, the investigation for circumferentially-oriented defects that may already be present, and information developed from the actions required by the Required Corrective Action Items 2B, 2C, and 3 of this ACAO. The CO Defect Detection Plan shall require the excavation of locations along the entire Affected Pipeline Facility where conditions exist which are likely to cause the formation of circumferentially-oriented defects and the remediation of defects as per Item 3 above (the “Excavation Project”).

Weather permitting, TEPPCO shall begin work on the Excavation Project within 30 days of the Director’s approval of the plan, and its work shall proceed in a professionally reasonable manner, taking into consideration weather conditions and other relevant factors. TEPPCO shall complete the Excavation Project in accordance with the CO Defect Detection Plan within 12 months of the receipt of this ACAO. The results of the Excavation Project shall be submitted to the Director.

If a viable and commercially available 8” in-line inspection tool that addresses circumferentially-oriented defects become available, TEPPCO must successfully complete an in-line inspection using this tool on the Affected Pipeline Facility from Watkins Glen Pump station (MP 0.00) to the Selkirk Terminal (MP 164.76) as set forth in this Item 5. TEPPCO shall make any ILI results from these tool runs from the ILI tool vendor available to PHMSA at the same time they are made available to TEPPCO.

For any anomalies (including both circumferential cracking of the pipe and girth weld cracking) identified in an ILI tool run, as described above, TEPPCO shall develop a plan to evaluate and, as appropriate, remediate those anomalies (the “Tool Data Plan”). In developing the Tool Data Plan, TEPPCO shall consider information developed from the ILI tool run and prior ILI tool runs, and from the actions required by Items 2B, 2C, 3 and 5 above. TEPPCO shall submit the Tool Data Plan to the Director for approval.

Following the Director’s receipt of the Tool Data Plan, the Director shall issue an approval of the plan or identify to TEPPCO specific deficiencies that must be addressed before the plan will be approved. Upon approval of the Tool Data Plan, TEPPCO shall implement the plan.

If TEPPCO has not completed a Successful Tool Run on a segment within 12 months of TEPPCO’s receipt of this ACAO, TEPPCO must implement a pressure reduction of 10% of the current MOP for that segment. If TEPPCO has not completed a Successful Tool Run within 26 months of TEPPCO’s receipt of this ACAO, TEPPCO must implement an additional pressure reduction of 10% for that segment. For purposes of this ACAO, a

Successful Tool Run of a segment of the Affected Pipeline Facility is completed when TEPPCO's ILI tool vendor certifies that the overall volume of data collected approaches the volume expected, the difference between the length of the pipe segment and the tool measured length is within the specified range, the speed of the tool was within the specified speed limits throughout the run, and spot checks of the ILI raw data verifies data signals are within expected ranges.

If TEPPCO must implement a pressure reduction for failure to complete a Successful Tool Run, TEPPCO will be allowed to increase the pressure back to the MOP for that segment only upon its completion of the Tool Data Plan for any anomalies identified in a Successful Tool Run, as set forth above. In addition, TEPPCO's failure to perform an in-line inspection within 26 months may result in additional compliance actions being imposed by PHMSA. In that event, TEPPCO will be notified of any additional measures PHMSA believes are required and an amendment of this ACAO will be considered.

TEPPCO shall inspect the surface conditions on the right-of-way of the Affected Pipeline at intervals not exceeding 3 weeks, but at least 37 times each calendar year, until the plan to address circumferentially-oriented defects or the implementation of the Tool Data Plan has been completed.

6. Within 180 days of receipt of this ACAO, for the portion of the Affected Pipeline Facility from Watkins Glen Pump Station ("MP 0") to Oneonta Terminal ("MP 95"), TEPPCO must:
  - A. perform a comparative analysis of the 2003 ILI results to the 2008 ILI results to substantiate and adopt a corrosion growth rate, and to help validate the 2008 ILI results of that section,
  - B. and submit these results of ILI analysis to the Director.
  
7. Within 180 days of receipt of this ACAO, based upon failure findings, TEPPCO must:
  - A. re-evaluate its integrity management assessment schedule and provide documentation for the revised interval length, depth and ILI interaction criteria;
  - B. re-evaluate its anomaly assessment process by analyzing and providing related documentation about anomaly growth rate, interval length, depth and interaction criteria;
  - C. and submit the results of these analyses and evaluations to the Director.
  
8. Within 90 days of receipt of this ACAO, TEPPCO must:
  - A. perform a close interval survey, conduct a review of annual test site survey readings and casing survey readings for the years 2007, 2008, 2009 and 2010 (if related 2010 activities have already been performed) showing the date of each survey reading and evaluation of the Affected Pipeline Facility for inadequate

corrosion control, and remediate pipe coatings and cathodic protection as necessary; and

- B. submit data from these cathodic protection surveys and remediation plans based upon findings, including the running of direct current voltage (“DCVG”) surveys or equivalent surveys to find damaged pipe coatings, to the Director prior to performing remediation.
9. Within 90 days of receipt of this ACAO, develop and submit a written remedial work plan (“Remedial Work Plan”) to the Director for prior approval. The Remedial Work Plan must fully address all known or suspected factors that caused or contributed to the Failure and must include:
- A. The integration of the available information developed from the actions required by Items 2-8 above with relevant pipeline system information, including: previous failure investigations, leak history, repair records, corrosion control/cathodic protection records, in-line inspections, hydrostatic testing, changes in pressure cycling, O&M Procedures for excavation, repairs including girth weld, pipe support, pipe stress analysis during excavations, backfill, and other relevant operating data for the purpose of performing a comprehensive analysis of the available information associated with the factors that caused or contributed to the failure. The analysis of the in-line inspection data must include overlaying the results from previous data from 2003 to present, collected including any and all electrical surveys;
  - B. The performance of additional field testing, inspections, and evaluations to determine whether and to what extent the conditions associated with the Failure, or any other integrity threatening conditions, are present along the remainder of the Affected Pipeline Facility. Include a detailed description of the criteria to be used for the evaluation and prioritization of any integrity threats/anomalies that are identified. TEPPCO must submit the results of the inspections, field excavations, evaluations, and monitoring to the Director or his representative;
  - C. The performance of repairs, pipe replacement or other corrective measures that fully remediate the condition(s) associated with the Failure, along the entire Affected Pipeline Facility including HCAs and non-HCAs, or any other integrity-threatening conditions, are identified through the evaluation process. Include a detailed description of the repair criteria and methods to be used in undertaking any repairs or other remedial actions, taking into account engineering repair methods and design factors for permanent repair of imperfections, damages and dents. All anomalies with a pipe wall thickness loss of 50 percent or greater or a failure pressure ratio (“FPR”) of less than 1.39, or that do not meet 49 C.F.R. § 195.452(h)(4)(i), (ii), and (iii) must be excavated, remediated and/or repaired on the Affected Pipeline Facility, whether in a high consequence area or non-high consequence area. TEPPCO must develop and conduct a program based upon the Failure and the findings from Items 2-8 above for the entire Affected Pipeline Facility, whether in a high consequence area or non-high consequence area, that

includes usage of ILI or a hydrostatic test program to evaluate all threats, including corrosion, LF-ERW pipe seam, girth weld cracking, pipe buckling and weld failure due to overstressing, and stress corrosion cracking, and submit details of the program and the results to the Director.

- D. Provisions for scheduling periodic testing and integrity verification measures to ensure the ongoing safe operation of the Affected Pipeline Facility considering the results of the analyses, inspections, and corrective measures undertaken pursuant to this ACAO. The development of the provisions for periodic testing and integrity verification must consider measures up to and including pipe replacement for the Oneonta to Selkirk section of the Affected Pipeline Facility. Include a process for monitoring metal loss, assessing corrosion procedures, evaluating pipe coating surveys and other field survey results, and how remedial actions are reported and implemented throughout the TEPPCO organization to ensure appropriate resources are allocated and remedial actions are taken in a timely manner when need is identified by field surveys; and
  - E. A proposed schedule for the actions required by paragraphs (A) through (D) of Item 9 above to be completed within 1-year of this ACAO, include a schedule for excavating and remediating all findings of inadequate corrosion, metal loss (high resolution MFL) and deformation ILI tool surveys for the Affected Pipeline Facility.
10. The Remedial Work Plan will be incorporated into this ACAO and shall be revised by TEPPCO as necessary to include the results of the ILI tool run (metal loss and deformation) evaluations required by Item 4(I) above including re-analyzing all of the June 2008 ILI information using past ILI interaction criteria; and when the results become available and whenever necessary to incorporate new information obtained during the failure investigation and remedial activities undertaken pursuant to this ACAO. Submit any such revisions to the Remedial Work Plan to the Director for prior approval. The Director may approve the Remedial Work Plan elements incrementally.
  11. Implement the Remedial Work Plan as it is approved by the Director, including any revisions to the plan.
  12. Submit quarterly reports to the Director that: (1) include all available data and results of the testing and evaluations required by this ACAO; and (2) describe the progress of the repairs or other remedial actions being undertaken. The first quarterly report for the period from August 27, 2010, through December 31, 2010, is due by January 15, 2011, and these quarterly reports must continue while this ACAO is in effect.
  13. Maintain documentation of the costs associated with implementation of this ACAO. Include in each quarterly report submitted pursuant to Required Corrective Action Item 12, the to-date total costs associated with: (1) testing, evaluations and information analysis; (2) revisions of procedures and additional monitoring and inspections; and (3) physical changes to pipeline infrastructure, including repairs, replacements and other modifications.

14. When providing or making related information available to the Director, annotate each submission to reference the origin of such individual requirement noted above.
15. When providing or making related information available to the Director, TEPPCO must provide the identical information to the Chief – Safety Section of NYS DPS.
16. Label all related documents and electronic correspondence with CPF No. 1-2010-5008H.

The Director may approve each submission required under this ACAO in whole or in part and with or without modifications or conditions. TEPPCO must take all action required by the submission as approved or modified by the Director. If the Director disapproves all or any portion of a submission, TEPPCO must correct all deficiencies within the time specified by the Director, and resubmit it for approval.

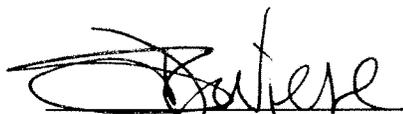
The Director may grant an extension of time for compliance with any of the terms of this ACAO upon a timely written request submitted demonstrating good cause for an extension.

The actions required by this ACAO are in addition to, and do not waive, any requirements that apply to Respondent's pipeline system under the Pipeline Safety Laws and Regulations or any other provision of Federal or State law.

Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator are final. Decisions of the Associate Administrator constitute a final agency order.

In accordance with 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, failure to comply with this ACAO may result in the administrative assessment of civil penalties and referral to the Attorney General for appropriate relief in a district court of the United States pursuant to 49 U.S.C. § 60120.

The terms and conditions of this ACAO are effective upon service in accordance with 49 C.F.R. § 190.5.



Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

**NOV 24 2010**

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Date Issued

**§ 190.231**

(c) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility, any interstate pipeline facility, or any intrastate pipeline facility used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce (as those terms are defined in 49 U.S.C. 60101 *et seq.*) shall, upon conviction, be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Any person who willfully and knowingly defaces, damages, removes, destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 *et seq.* or 49 U.S.C. 5101 *et seq.*, or any regulation or order issued thereunder shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 1 year, or both.

(e) Any person who willfully and knowingly engages in excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or without considering location information or markings established by a pipeline facility operator; and

(1) Subsequently damages a pipeline facility resulting in death, serious bodily harm, or property damage exceeding \$50,000;

(2) Subsequently damages a pipeline facility and knows or has reason to know of the damage but fails to promptly report the damage to the operator and to the appropriate authorities; or

(3) Subsequently damages a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product; shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 5 years, or both.

(f) No person shall be subject to criminal penalties under paragraph (a) of this section for violation of any regulation and the violation of any order issued under § 190.217, § 190.219 or

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§ 190.229 if both violations are based on the same act.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-2, 54 FR 32344, Aug. 7, 1989; Amdt. 190-4, 56 FR 63770, Dec. 5, 1991; Amdt. 190-6, 61 FR 18515, Apr. 26, 1996; 70 FR 11138, Mar. 8, 2005]

**§ 190.231 Referral for prosecution.**

If an employee of the Pipeline and Hazardous Materials Safety Administration becomes aware of any actual or possible activity subject to criminal penalties under § 190.229, the employee reports it to the Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. The Chief Counsel refers the report to OPS for investigation. Upon completion of the investigation and if appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt. 190-6, 61 FR 18515, Apr. 26, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

**SPECIFIC RELIEF**

**§ 190.233 Corrective action orders.**

(a) Except as provided by paragraph (b) of this section, if the Associate Administrator, OPS finds, after reasonable notice and opportunity for hearing in accord with paragraph (c) of this section and § 190.211(a), a particular pipeline facility to be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue an order pursuant to this section requiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(b) The Associate Administrator, OPS may waive the requirement for notice and opportunity for hearing under paragraph (a) of this section before issuing an order pursuant to this section when the Associate Administrator, OPS determines that the failure to do so would result in the likelihood of serious harm to life, property, or the environment. However, the Associate Administrator, OPS shall provide an opportunity for a hearing as soon as is

practicable after the issuance of a compliance order. The provisions of paragraph (c)(2) of this section apply to an owner or operator's decision to exercise its opportunity for a hearing. The purpose of such a post-order hearing is for the Associate Administrator, OPS to determine whether a compliance order should remain in effect or be rescinded or suspended in accord with paragraph (g) of this section.

(c) Notice and hearing:

(1) Written notice that OPS intends to issue an order under this section shall be served upon the owner or operator of an alleged hazardous facility in accordance with §190.5. The notice shall allege the existence of a hazardous facility and state the facts and circumstances supporting the issuance of a corrective action order. The notice shall also provide the owner or operator with the opportunity for a hearing and shall identify a time and location where a hearing may be held.

(2) An owner or operator that elects to exercise its opportunity for a hearing under this section must notify the Associate Administrator, OPS of that election in writing within 10 days of service of the notice provided under paragraph (c)(1) of this section, or under paragraph (b) of this section when applicable. The absence of such written notification waives an owner or operator's opportunity for a hearing and allows the Associate Administrator, OPS to issue a corrective action order in accordance with paragraphs (d) through (h) of this section.

(3) A hearing under this section shall be presided over by an attorney from the Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, acting as Presiding Official, and conducted without strict adherence to formal rules of evidence. The Presiding Official presents the allegations contained in the notice issued under this section. The owner or operator of the alleged hazardous facility may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether or not a corrective action order should be issued.

(4) Within 48 hours after conclusion of a hearing under this section, the Presiding Official shall submit a rec-

ommendation to the Associate Administrator, OPS as to whether or not a corrective action order is required. Upon receipt of the recommendation, the Associate Administrator, OPS shall proceed in accordance with paragraphs (d) through (h) of this section. If the Associate Administrator, OPS finds the facility is or would be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue a corrective action order in accordance with this section. If the Associate Administrator, OPS does not find the facility is or would be hazardous to life, property, or the environment, the Associate Administrator shall withdraw the allegation of the existence of a hazardous facility contained in the notice, and promptly notify the owner or operator in writing by service as prescribed in §190.5.

(d) The Associate Administrator, OPS may find a pipeline facility to be hazardous under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator, OPS determines the particular facility is hazardous to life, property, or the environment; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which the Associate Administrator, OPS determines is hazardous to life, property, or the environment, unless the operator involved demonstrates to the satisfaction of the Associate Administrator, OPS that, under the particular facts and circumstances involved, such equipment, material, or technique is not hazardous.

(e) In making a determination under paragraph (d) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities),

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the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

(4) Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board; and

(5) Such other factors as the Associate Administrator, OPS may consider appropriate.

(f) A corrective action order shall contain the following information:

(1) A finding that the pipeline facility is hazardous to life, property, or the environment.

(2) The relevant facts which form the basis of that finding.

(3) The legal basis for the order.

(4) The nature and description of any particular corrective action required of the respondent.

(5) The date by which the required corrective action must be taken or completed and, where appropriate, the duration of the order.

(6) If the opportunity for a hearing was waived pursuant to paragraph (b) of this section, a statement that an opportunity for a hearing will be available at a particular time and location after issuance of the order.

(g) The Associate Administrator, OPS shall rescind or suspend a corrective action order whenever the Associate Administrator, OPS determines that the facility is no longer hazardous to life, property, or the environment. When appropriate, however, such a rescission or suspension may be accompanied by a notice of probable violation issued under § 190.207.

(h) At any time after a corrective action order issued under this section has become effective, the Associate Administrator, OPS may request the Attorney General to bring an action for appropriate relief in accordance with § 190.235.

(i) Upon petition by the Attorney General, the District Courts of the United States shall have jurisdiction to

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enforce orders issued under this section by appropriate means.

[70 FR 11138, Mar. 8, 2005]

**§ 190.235 Civil actions generally.**

Whenever it appears to the Associate Administrator, OPS that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any provision of 49 U.S.C. 60101 *et seq.*, or any regulations issued thereunder, the Administrator, PHMSA, or the person to whom the authority has been delegated, may request the Attorney General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, civil penalties, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

[70 FR 11139, Mar. 8, 2005]

**§ 190.237 Amendment of plans or procedures.**

(a) A Regional Director begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195, and 199 of this subchapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 of this part and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Associate Administrator, OPS shall determine whether the plans or procedures are inadequate as alleged and order the required amendment if they are inadequate, or withdraw the notice if they are not. In determining the adequacy of an operator's plans or procedures, the Associate Administrator, OPS shall consider:

(1) Relevant available pipeline safety data;

(2) Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility, and for the location of the facility;