



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

SEP 02 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 Operating LLC
1100 Louisiana Street
Houston, Texas 77002-5227

Re: CPF No. 1-2010-5008H

Dear Mr. Hurlburt:

Enclosed please find a Corrective Action Order issued in the above-referenced case. It requires Texas Eastern Products Pipeline Company, LLC, a subsidiary of Enterprise Products Operating LP, and operated by Enterprise Products Operating LLC, to take certain corrective actions with respect to Line P-41 of the TEPPCO System running 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,

for Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosures: 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**

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

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.

This Corrective Action Order (CAO or Order) is being issued, under authority of 49 U.S.C. § 60112, to TEPPCO (Respondent) to take necessary corrective action to protect the public, property, and the environment from potential hazards associated with a failure involving TEPPCO's interstate liquid propane pipeline system between Watkins Glen, New York, and Selkirk, New York.

Preliminary 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, Mile Post (MP) 0.00, to Selkirk, NY, MP 164.76 (Affected Pipeline Facility). Texas Eastern Products Pipeline Company, LLC (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 coal tar enamel coating and is cathodically protected with an impressed current system.
- The established maximum operating pressure (MOP) of the Affected Pipeline Facility is 1,452 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 Mile Post 129.7 (upstream) and Mile Post 139.9 (downstream) of the Failure site. Line P-41 remains out of service from Watkins Glen to Selkirk, NY.
- The cause of the Failure has not yet been fully determined. 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 examination determined that no defect repair was necessary and upon which time the pipe was re-coated.

- Line P-41, approximately 164.76 miles long, was internally inspected in June 2008 with a standard resolution magnetic flux leakage (MFL) tool. Of the numerous anomalies identified, two (2) anomalies identified resulted in a pressure restriction on Line P-41 in May of 2010. The MOP in the section of line that includes the failure location was reduced from 1452 psi to 1328 psi.
- TEPPCO informed PHMSA that the two (2) anomalies, identified above from the 2008 inline inspection (ILI), have not been remediated. PHMSA has requested additional information from TEPPCO regarding these anomalies.
- Since 2002, PHMSA has issued four (4) enforcement actions related to the Integrity Management (IM) regulations against TEPPCO pipeline system-wide. Three (3) were Notice of Amendment actions and one (1) was a Notice of Probable Violation, with a \$51,000 Proposed Civil Penalty and Compliance Order.
- Line P-41 has a history of incidents dating back to 1990. On March 13, 1990, an incident occurred near the town of North Blenheim, New York. The cause of the incident was due to a brittle failure of the carrier pipe inside a casing. As a result of the pipe failure, two (2) people were killed and numerous houses were destroyed in the explosion. In 2004, another failure occurred on Line P-41 near the town of Davenport, New York. The incident resulted from a through-wall failure of the pipe material at a fitting that was attached to the top of the pipe.

Determination of Necessity for Corrective Action Order and Right to Hearing

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. Under those provisions, the Associate Administrator may issue a CAO if he/she finds, after reasonable notice and the opportunity for a hearing, a particular pipeline facility to be hazardous to life, property, or the environment. The terms of a CAO may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or any other action as appropriate. The Associate Administrator may also issue a CAO without notice and the opportunity for a hearing, if he/she finds that a failure to do so expeditiously will likely result in serious harm to life, property or the environment. In such cases, the opportunity for a hearing will be provided as soon as practicable after the issuance of the CAO.

After evaluating the foregoing preliminary findings of fact and applicable criteria set forth above, I find that the continued operation of the section of the Affected Pipeline Facility, without corrective measures, would be hazardous to life, property, and the environment. The product transported by TEPPCO in Line P-41 is liquid propane. When such a pipeline leaks or ruptures, the propane has a tendency to remain low to the ground due to the specific gravity of the product in relation to air and does not readily dissipate. Therefore, this product creates a dangerous environment and is easily ignitable. As cited above, this line was within 0.25 mile of residences and in close proximity to a roadway and therefore, a ruptured line is hazardous to life, property, and the environment. This finding is also supported by the age of the pipe, the pressure required

for transporting such product, and the ongoing investigation to determine the cause of the Failure.

I further find that a failure to issue this Order expeditiously requiring immediate corrective action would likely result in serious harm to life, property, or the environment. That finding is supported by the operational history of this particular line, including the Failure and the 1990 failure near this same location. Both failures occurred after TEPPCO had performed operations and maintenance (O&M) excavations and repairs. Specifically, just days prior to the Failure, TEPPCO conducted integrity excavations on this line and determined that no defect repairs were necessary. Further, TEPPCO experienced another failure on this line in 2004 that occurred near the town of Davenport, New York. That incident resulted from a through-wall failure of the pipe material at a fitting that was attached to the top of the pipe. Finally, this finding is supported by the fact that TEPPCO identified two (2) anomalies during the 2008 ILI on the Affected Pipeline Facility and has acknowledged that these anomalies had not been corrected prior to the Failure. Accordingly, this Corrective Action Order mandating immediate corrective action is issued without prior notice and opportunity for a hearing and its terms and conditions are effective upon receipt.

Within 10 days of receipt of this Order, Respondent may request a hearing by notifying the Associate Administrator for Pipeline Safety in writing, delivered personally, by mail or by facsimile at (202) 366-4566. The hearing will be held as soon as practicable in Washington, D.C. or Trenton, NJ on a date that is mutually convenient to PHMSA and Respondent.

After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken. In that event, Respondent will be notified of any additional measures required and an amendment of this Order will be considered. To the extent it is consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

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 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"). 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 and removing all of the casing, and transport 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;

(B) Submitting 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, to the Director.

(C) Submitting 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 to the Director.

(D) 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 two (2) MOP-impacting anomalies 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 for Required Corrective Action Item #2D shall include non-destructive examination in accordance with 49 CFR § 195.228 of the nearest girth weld on either side of the anomaly excavated and all girth welds exposed during the excavation.

(E) Submitting 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 to the Director.

(F) For the 2008 ILI data, submitting 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, to the Director.

(G) Immediately after restarting the portion of the Affected Pipeline Facility from the Oneonta Terminal (MP 95) through the Selkirk Terminal (MP 164.76) during line pack, performing a ground-level instrumented leak survey on this portion of the Affected Pipeline Facility initially checking 3 miles up and down stream of the Failure site. Investigate any elevated leak survey readings and make all appropriate repairs. After restarting the portion of the Affected Pipeline Facility from Watkins Glen Pump Station (MP 0) to Oneonta Terminal (MP 95), perform either an aerial or ground-level

instrumented leak survey, investigate any elevated readings, make all appropriate repairs, and submit any safety findings to the Director.

(H) Ensuring adequate cathodic protection for the area where the Failure occurred. Establishing a 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.

(I) Establishing all operating pressure controls for the Affected Pipeline Facility, not to exceed 80 percent of the actual operating pressure in effect immediately prior to the Failure, and making a listing of all pre-and post-operating pressure set points available to the Director.

(J) Reviewing 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, and make all findings available to the Director.

(K) Reviewing the findings from past failures on the Affected Pipeline Facility from 1980 until the issuance of this CAO and ensuring the O&M Plan procedures are technically sound to ensure safety and make any procedural changes available to the Director.

(L) Prior to performing an incremental start-up of the Affected Pipeline Facility , developing a start-up plan with at least three (3) pressure increments to be held for at least one (1) hour prior to increasing operating pressures to the next increment. The start-up plan must include sufficient pressure monitoring, instrumented leak surveys, and surveillance during each pressure increment to ensure that no leaks are present when operation of the line is resumed on any portion of the Affected Pipeline Facility. The start-up plan procedures must also provide for advance communication with local emergency response officials on the Affected Pipeline Facility and those landowners and residents affected by the Failure.

(M) Prior to start-up of the portion of the Affected Pipeline Facility from Watkins Glen Pump Station (MP 0) to Oneonta Terminal (MP 95) isolating the Line P-41 section from Oneonta Terminal to Selkirk Terminal (MP 164.76) either by double block and bleed of mainline valves, including lock-out tag-out procedures, or installation of isolating caps of blind flanges.

(N) Prior to restarting of the portion of the Affected Pipeline Facility from Oneonta Terminal (MP 95) to the Selkirk Terminal (MP 164.76), performing a comparative analysis of the 2003 ILI results to the 2008 ILI results to substantiate and adopting a corrosion growth rate, and to help validate the 2008 ILI results of that section. Submit these results of ILI analysis to the Director.

(O) Prior to start-up of the portion of the Affected Pipeline Facility from Watkins Glen Pump Station (MP 0) to Oneonta Terminal (MP 95), performing an analysis of the entire Affected Pipeline Facility for public awareness of the pipeline as required in 49

CFR § 195.440 for the years 2007, 2008, 2009, and 2010 and submitting TEPPCO's program documentation and evaluation results to the Director.

(P) Prior to start-up of the portion of the Affected Pipeline Facility from Oneonta Terminal (MP 95) to the Selkirk Terminal (MP 164.76) complete Required Corrective Action Items #2, 3, 4, 5, 8, 9, and 10 for this portion of the pipeline. All excavations and repairs required for Required Corrective Action Item #7, prior to restart of this portion of the Affected Pipeline Facility from Oneonta Terminal (MP 95) to the Selkirk Terminal (MP 164.76), shall include non-destructive examination in accordance with 49 CFR 195.228 of the nearest girth weld on either side of the anomaly and all girth welds exposed during the excavation. Submit these finding results to the Director.

(Q) A minimum of 3-days prior to performing start-up operations submit Required Corrective Action Items #2A, 2B, 2C, 2D, 2E, 2F, 2H, 2I, 2J, 2 K, 2L, 2M, 2N, 2O, and 2P to the Director.

(R) A maximum of 3-days after performing start-up operations submit Required Corrective Action Item #2G to the Director.

Once these actions have been successfully completed, obtain written approval to resume operation of the Affected Pipeline Facility from the Director.

3. Once any portion of the Affected Pipeline Facility is re-started in accordance with Required Corrective Action Item #2, the operating pressure on the Affected Pipeline Facility must not exceed 80 percent of the actual operating pressure in effect at each pump station immediately prior to the August 27, 2010, failure at Mile Post 133.9. This pressure restriction will remain in effect until written approval to increase the pressure or return the pipeline to its pre-failure operating pressure is obtained from the Director in accordance with CAO Required Corrective Action Item #14.

4. Within 30 days of receipt of this Order, complete 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:

- (A) Prior to commencing the mechanical and metallurgical testing, provide the Director with the scheduled date, time, and location of the testing to provide an opportunity for a PHMSA representative to witness the testing;
- (B) Document the chain-of-custody when handling and transporting the failed pipe section and other evidence from the Failure site;
- (C) 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:
 - 1) 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, (Toughness test specimens must be evaluated to

ensure that the test specimens are located in the applicable area identified for testing.)

- 2) WM & BM chemistries,
- 3) WM, HAZ, and BM Vickers hardness including the WM root, fill & cap pass regions,
- 4) Weld and pipe misalignment,
- 5) Weld stress concentration factor due to actual measured weld geometry and misalignment to the pipe,
- 6) Pipe wall thickness,
- 7) Pipe and acceptable weld mechanical and chemical properties

(D) TEPPCO must perform the above Items# 4C - 1 through 7 on the below new welds and compare the results to the failed weld, acceptable (non-failed) girth weld, and pipe:

- 1) An “acceptable” girth weld, which has been completed using the Weld Procedure Specification (WPS) and line pipe, and
- 2) Weld a new girth weld, new weldolet, and new Type B sleeve installation using current TEPPCO WPS.

(E) 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.

5. Prior to restarting any portion of the Affected Pipeline Facility, submit 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 Order, 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 Line P-41 failure and whether any other anomalies of a similar magnitude or similar characteristics are present elsewhere on the Affected Pipeline Facility. Make these results of ILI analysis available to the Director.

6. Within 180 days of receipt of this order for the portion of the Affected Pipeline Facility from Watkins Glen Pump Station (MP 0) to Oneonta Terminal (MP 95) 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. Submit these results of ILI analysis to the Director.

7. Within 180 days of receipt of this Order, all imperfections and anomalies, including those in both high consequence areas and non-high consequence areas, must be excavated, remediated and/or repaired on the Affected Pipeline Facility that are: equal to or greater than 50-percent wall loss, have a failure pressure ratio (FPR) of less than 1.39, or do not meet 49 CFR 195.452(h)(4)(i), (ii), and (iii). 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. Based upon failure findings, TEPPCO must re-evaluate its integrity management assessment schedule and provide documentation for the revised interval length, depth and ILI interaction criteria. TEPPCO must submit the results of these ILI tool runs and evaluations to the Director, at the same time as they are received from the tool vendors and from field excavations.

8. Within 90 days of receipt of this Order, 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. TEPPCO must 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 Order, develop and submit a written remedial work plan to the Director for prior approval. The 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 information developed from the actions required by Required Corrective Action Items 2, 4, 5, 6, 7 and 8 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 its 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 either: pipe wall thickness loss of 50 percent or greater, a failure pressure ratio (FPR) of less than 1.39, or that do not meet 49 CFR § 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 Required Corrective Action Items# 2, 4, 5, 6, 7, and 8 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 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 Order. 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 Required Corrective Action Item #9 to be completed within 1-year of this Order, 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 work plan will be incorporated into this Order and shall be revised by TEPPCO as necessary to include the results of the ILI tool run (metal loss and deformation) evaluations required by Corrective Action Item# 5 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 Order. Submit any such plan revisions to the Director for prior approval. The Director may approve plan elements incrementally.

11. Implement the 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 Order; 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 Order is in effect.

13. Maintain documentation of the costs associated with implementation of this Corrective Action Order. Include in each quarterly report submitted pursuant to Required Corrective Action Item#10, 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. The Director may allow the removal or modification of the pressure restriction set forth in Required Corrective Action Item #2 upon a written request from Respondent demonstrating that increasing the pressure or returning the line to its pre-failure operating pressure is justified based on a reliable engineering analysis showing that the pressure increase is safe considering all known defects (either repaired or remaining), anomalies and operating parameters of the pipeline.

15. When providing or making related information available to the Director, annotate each submission to reference the origin of such individual requirement noted above.

16. When providing or making related information available to the Director, TEPPCO must provide the identical information to the Chief – Safety Section of NYS DPS.

17. Label all related documents and electronic correspondence with **CPF No. 1-2010-5008H**.

The Director may approve each submission required under this Order 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 Order upon a timely written request submitted demonstrating good cause for an extension.

The actions required by this Order 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.

In accordance with 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, failure to comply with this Order may result in the administrative assessment of civil penalties and in 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 Order are effective upon service in accordance with 49 C.F.R. § 190.5.


 for Jeffrey D. Wiese
 Associate Administrator
 for Pipeline Safety

SEP 02 2010

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

49 CFR Ch. I (10-1-09 Edition)

§ 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),

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

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;