



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

901 Locust Street, Suite 462  
Kansas City, MO 64106-2641

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

**VIA CERTIFIED MAIL AND BY FACSIMILE TO: 713-381-8056**

October 28, 2009

Mr. Terry Hurlburt  
Vice President – Operations  
Enterprise Products Operating LLC  
1100 Louisiana Street  
Houston, TX 77002

**CPF 3-2009-5022**

Dear Mr. Hurlburt:

On September 11, 2007, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was notified by the National Response Center (Report No. 848445) of an accident involving a hazardous liquid pipeline operated by Enterprise Products Operating LLC (Enterprise). The accident occurred on Enterprise's 12-inch "Brown" line in Clark County Kansas, approximately three miles north of Englewood, KS at Mile Post (MP) 362. The failure resulted in the release of approximately 14,763 barrels of a highly volatile liquid, specifically Y-grade de-methanized natural gas liquid (NGL) mix. As a result of this failure State Highway 283 was closed for five days.

The subsequent investigation confirmed that the cause of the release was the failure of a threaded connection on 2-inch diameter bypass piping. The 2-inch diameter bypass was installed on the 12-inch Brown line approximately 10 hours before the failure on September 10, 2007, after a maintenance pig became lodged in the mainline valve setting at Mile Post 362.

As a result of our investigation of this accident, it appears that you have committed probable violations of the pipeline safety regulations, Title 49, Code of Federal Regulations. The probable violations are:

**1. §195.422 Pipeline Repairs.**

**(a) Each operator shall, in repairing its pipeline systems, insure that the repairs are made in a safe manner and are made so as to prevent damage to persons or property.**

Enterprise did not insure that the installation of the bypass, as part of the repair effort to remove the lodged maintenance pig, was made in a safe manner so as to prevent damage. As evidenced by the failure shortly after installation that resulted in the release of NGL and property damage, the repair was not made in a safe manner and was inadequate to prevent damage.

The 2-inch diameter bypass piping was installed on September 10, 2007, to allow product flow around the lodged pig. To accomplish removal of the lodged pig and repair of the pipeline, Enterprise intended to weld stopple fittings to the 12-inch Brown line while product was flowing through the 2-inch bypass.

The post-accident failure analysis concluded that the connection of a 2-inch ball valve to a 2-inch fitting was incorrectly installed resulting in damage to the threads. This damaged threaded connection failed at approximately 12:13 a.m. on September 11, 2007, resulting in over 14,000 barrels released from the pipeline.

**2. §195.402 Procedural manual for operations, maintenance, and emergencies.**

**(a) General. Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

**(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Enterprise did not include written procedures in its Operations and Maintenance manual that provide for adequate safety when installing threaded pipefittings in connection with performing maintenance and repairs to its pipeline system. Written procedures for pipefitting are necessary to assure safety when conducting maintenance and repair activities.

**3. §195.505 Qualification program.**

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

- (a) Identify covered tasks;**

Enterprise did not include pipefitting in the list of covered tasks as part of its Operator Qualification program. The assembly of threaded pipe connections would be part of the pipefitting task. Pipefitting is an operations and maintenance task performed on the pipeline that affects pipeline operation and integrity, and is required by §195.422.

**4. §195.505 Qualification program.**

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

- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**

The personnel that installed the 2-inch bypass piping were not evaluated to ensure that they were qualified to perform pipefitting (the task of joining pipe using threaded connections). The pipefitting task was completed on September 10, 2007, approximately 10 hours prior to the failure. Enterprise indicated that nine individuals were involved in performing the installation of the 2-inch bypass piping.

**5. §199.105 Drug tests required.**

**Each operator shall conduct the following drug tests for the presence of a prohibited drug:**

- (b) Post-accident testing. As soon as possible but no later than 32 hours after an accident, an operator shall drug test each employee whose performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. An operator may decide not to test under this paragraph but such a decision must be based on the best information available immediately after the accident that the employee's performance could not have contributed to the accident or that, because of the time between that performance and the accident, it is not likely that a drug test would reveal whether the performance was affected by drug use.**

Enterprise did not conduct post-accident drug testing of the nine employees that were involved with installation of the 2-inch bypass. The installation of the 2-inch bypass piping was completed at approximately 2:00 p.m. on September 10, 2007, and the failure of the bypass piping occurred at 12:13 a.m. on September 11, 2007. Due to the timing of the accident shortly after installation of the bypass piping, employee performance could not be completely discounted as a contributing factor to the accident. Additionally, there was not a sufficiently long period of time between installation of bypass and the accident to conclude that a drug test would not likely reveal whether employee performance was affected by drug use.

Review of the accident confirmed that employee performance contributed to the accident because a threaded connection was damaged by personnel on September 10,

2007 during installation of the bypass. Enterprise indicated that twelve persons were involved with planning, supervising and installing the 2-inch bypass.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$466,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$100,000
2	\$133,100
4	\$133,100
5	\$100,000

Proposed Compliance Order

With respect to items 2, 3, and 4 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Enterprise Products Operating LLC. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order in your correspondence on this matter, please refer to **CPF 3-2009-5022** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Ivan A. Huntoon". The signature is fluid and cursive, with a prominent initial "I" and a long, sweeping underline.

Ivan A. Huntoon  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

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

## PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 2 of the Notice pertaining to the lack of written procedures, Enterprise must prepare and submit written procedures for pipefitting. Pipefitting includes, but is not limited to; making and/or connecting threaded pipe and components, assembling flanged pipe and components, coupled connections, bending and/or connection of instrument and control tubing, and inspections of completed pipefitting assemblies. The procedures shall also include, but not be limited to, description of the following: minimum pipe and component strength, minimum pressure ratings and dimensions of pipe and components, maximum unsupported length of completed assemblies, and other requirements necessary to assure that completed assemblies conform to 49 CFR Part 195.
2. In regard to Item Number 3 of the Notice pertaining to inclusion of pipefitting as a covered task, Enterprise must identify and add to its covered task list any and all tasks associated with pipefitting. Pipefitting task(s) are as described in Item 1 above of the Proposed Compliance Order. The identification of pipefitting task(s) must be in conformance with the requirements of 49 CFR Part 195, Subpart G – Qualification of Pipeline Personnel.
3. In regard to Item Number 4 of the Notice pertaining to evaluation and qualification of employees to perform pipefitting, Enterprise must prepare and submit a written evaluation and qualification program for pipefitting in conformance with the requirements of 49 CFR Part 195, Subpart G – Qualification of Pipeline Personnel.
4. In regard to Item Number 4 of the Notice pertaining to evaluation and qualification of employees to perform pipefitting, Enterprise must complete the training, evaluation, and qualification of all personnel who will perform pipefitting tasks on its pipeline.
5. Items 1, 2, and 3 of the Proposed Compliance Order must be completed and submitted for approval by the Director, Central Region, PHMSA within 30 days after receipt of the Final Order.
6. Item 4 of the Proposed Compliance Order must be completed and documented within 90 days after receipt of the Final Order. Enterprise shall submit documentation to the Director, Central Region, PHMSA demonstrating that training, evaluation, and qualification of personnel is complete.
7. Enterprise shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Ivan A. Huntoon, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

## **Response Options for Pipeline Operators in Compliance Proceedings**

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Be advised that all material submitted by a respondent in response to an enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

### **I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:**

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

#### **a. When the Notice contains a proposed CIVIL PENALTY\* --**

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;
2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Refer to 49 C.F.R. § 190.225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based;
3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a proposed COMPLIANCE ORDER\* --

1. If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a WARNING ITEM --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT\*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the

Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;

- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

### III. **Procedure for Requesting a Hearing**

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

### IV. **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

### V. **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption

provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to [http://www.sba.gov/ombudsman/dsp\\_faq.html](http://www.sba.gov/ombudsman/dsp_faq.html).

VII. **Payment Instructions**

***Civil Penalty Payments of Less Than \$10,000***

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration  
Mike Monroney Aeronautical Center  
Financial Operations Division (AMZ-341) P.O. Box 269039  
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

***Civil Penalty Payments of \$10,000 or more***

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

## INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #1** - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

**Block #7** - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #10** - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

**NOTE:** A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8893 at the time you send the wire transfer.

February 2009