

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

OVERNIGHT EXPRESS DELIVERY

May 31, 2019

Mr. Kelcy L. Warren
Chief Executive Officer
Rover Pipeline, LLC
1300 Main Street
Houston, TX 77002

CPF 1-2019-1001

Dear Mr. Warren:

On January 25, March 19-22, May 8-11, and June 18, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Rover Pipeline, LLC's (Rover) Rover Pipeline Project in Ohio and West Virginia. Rover Pipeline, LLC is a subsidiary of Energy Transfer Partners, LP.

As a result of the inspection, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violation(s) are:

1. § 192.241 Inspection and test of welds.

(c) The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7). Appendix A of API Std 1104 may not be used to accept cracks.

Rover failed to determine the acceptability of nondestructively tested welds according to the standards in section 9 or Appendix A of API Std 1104. Specifically, Rover failed to identify 33

welds that were unacceptable under section 9 of API Std 1104 at the time of nondestructive examination¹.

Rover’s failure to identify unacceptable welds was discovered during a follow-up audit of Rover’s weld x-rays. During an earlier PHMSA investigation of a December 17, 2017 girth weld failure that occurred during post construction hydrostatic testing on the Sherwood Lateral, PHMSA discovered that multiple Nondestructive Examination (NDE) film auditors responsible for reviewing 100% of the weld radiographs on the Rover Project were not qualified per the requirements of Rover’s Energy Transfer Welding Standards Document No. 060, effective February 1, 2017.

Based on the aforementioned deficiency, PHMSA issued a separate Notice of Probable Violation and Proposed Compliance Order under CPF 1-2018-1018 on September 10, 2018, which proposed that Rover conduct a re-examination of 9,952 weld x-rays. Rover elected to conduct the re-examination, and during the course of the re-audit, Rover noted that one particular NDE contractor had a number of incorrect weld interpretations. Rover elected to perform a 100% re-audit of said contractor’s radiographic film, bringing the total number of welds re-audited by Rover to 13,859.

As a result of the re-audit effort, Rover discovered evidence that shows it failed to comply with § 192.241(c). Specifically, Rover discovered that several NDE qualified Level II technicians, tasked with determining acceptability of completed welds, had failed to identify 33 welds that were unacceptable under the radiographic test method acceptance criteria in Section 9 of API Std 1104. All of these welds required repair under § 192.245(a); several of which were noted to have resided on segments that were already placed in service.

Accordingly, Rover violated § 192.241(c) by failing to identify 33 welds that were unacceptable under section 9 of API Std 1104 at the time of nondestructive examination.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a 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 \$143,000 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$143,000

¹ Rover used section 9 of API Std 1104 to determine the acceptability of welds that are nondestructively tested or visually inspected. Rover did not provide any documentation demonstrating that it had use or could use Appendix A to comply with § 192.241.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

Please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2019-1001** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: Mr. Eric Amundsen, Rover Pipeline, LLC

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*