

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 26, 2013

David Ysebaert
President and CEO
Explorer Pipeline Company
P.O. Box 2650
Tulsa, OK 74101

CPF 3-2013-5009

Dear Mr. Ysebaert:

On November 7-10, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Explorer Pipeline Company's (EPC) pipeline system and associated operation and Maintenance records at your Tulsa, OK headquarters and Wood River, IL facility.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. §195.589 What corrosion control information do I have to maintain?

- (c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years...**

EPC did not maintain and upon request was unable to provide the atmospheric corrosion monitoring documentation for those inspections required, pursuant to §195.583. Specifically, EPC did not maintain and was unable to provide records documenting its inspections of the Premcor Junction, Marathon 12" Junction, JD Street, and Sun Mobil locations during the 2007 through 2010 inspection cycle.

EPC provided the following written statement in response to a request from PHMSA's Central Region: "Atmospheric inspections were conducted in 2011. The supporting documentation for these 4 locations from the previous atmospheric 2007 to 2010 inspections cycle is pending and is still being reviewed. As we discussed during the audit, a personnel change was made with the Corrosion Supervisor and now with our Manager/Director of Asset Integrity. Supporting corrosion records are being reviewed and continue in effort to locate these 4 locations from the last inspection cycle."

2. §195.569 Do I have to examine exposed portions of buried pipelines?

Whenever you have knowledge that any portion of a buried pipeline is exposed, you must examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If you find external corrosion requiring corrective action under Sec. 195.585, you must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

EPC did not perform an inspection of exposed buried pipeline in a creek bed that was documented by a contractor in a Close Interval Survey (CIS) report dated June 4, 2008.

Central Region PHMSA inspectors requested documentation of performance for the exposed pipeline inspection as reported in June 4, 2008 CIS Report. EPC did not provide documentation. At the time of visiting the reported location, at PHMSA's request, PHMSA representatives and Explorer personnel verified that the exposed pipeline exists as of November 9, 2011 at station number 13024+22.

3. §195.573 What must I do to monitor external corrosion control?

(e) Corrective action. You must correct any identified deficiency in corrosion control as required by Sec. 195.401(b).

EPC did not correct deficiencies identified from the Close Interval Surveys (CIS) performed in 2008 on the Rolla to Gerald Station and Gerald Station to Weldon Springs line sections. Central Region PHMSA inspectors requested documentation of performance for the correction of the deficiencies identified in reports resulting from multiple Close Interval Surveys conducted in 2008. EPC personnel were unaware of corrosion control deficiencies until documentation of performance was requested by PHMSA inspectors.

A probable violation that cites the same conduct as the finding of violation in a Final Order for the referenced case is considered a repeat offense. This probable violation is a repeat violation of Item 2, CPF# 3-2009-5018.

4. §195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

EPC did not provide a means for containing hazardous liquids in the event of spillage or failure of one aboveground breakout tank. PHMSA inspectors observed the construction configuration of the tank at Gerald pump station and requested documentation supporting the authorization of operating under the current configuration. EPC did not provide documentation.

EPC provided the following written statement in response to a request from PHMSA's Central Region, "The 470-barrel tanks at the Gerald and Lebanon Pump Stations are associated with the original 1970-1971 construction of the pipeline system." In addition the response stated that "...the product in the tanks can re-inject into the pipeline."

Effective April 1, 1970, Part 195 Original Document, states the following:

§ 195.264 Above ground tanks.

- (a) A means must be provided for containing liquids in the event of spillage or tank failure.

EPC constructed the line in 1970 and 1971 with its first shipment October 25, 1971. Therefore, EPC did not provide the required containment per the regulation in effect.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 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 \$91,900 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$17,600
2	\$22,500
3	\$51,800

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 Explorer Pipeline Company. 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 3-2013-5009** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
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 Explorer Pipeline Company a Compliance Order incorporating the following remedial requirements to ensure the compliance of Explorer Pipeline Company with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to EPC not performing an inspection of exposed buried pipeline in a creek bed that was documented by a contractor in a Close Interval Survey (CIS) report dated June 4, 2008 (24" Lebanon to Rolla Station), Explorer must examine the exposed portion of pipeline for evidence of deteriorated or bare pipe. In the event the operator finds external corrosion requiring corrective action under Sec. 195.585, the operator must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.
2. In regard to Item Number 3 of the Notice pertaining to not demonstrating performance for the correction of the deficiencies identified in multiple Close Interval Surveys reports, which were conducted in 2008., Explorer must correct all the "Off CP Levels Dip Below 850" deficiencies identified in the Coastal Corrosion Control, Inc.'s Close Interval Survey Reports dated June 26, 2008 (24" Gerald to Weldon Springs), and July 21, 2008 (24" Rolla to Gerald Station) and demonstrate that cathodic protection is currently adequate.
3. In regard to Item Number 4 of the Notice pertaining to not providing a means for containing liquids in the event of spillage or tank failure, within 30 days of issuance of the Final Order Explorer must submit a plan and schedule, for approval by the Director – Central Region, to install a method of containment for all above ground breakout tanks.
4. Explorer Pipeline Company shall within 90 days from the date of issuance of the Final Order complete all remedial requirements of this Proposed Compliance Order and notify in writing the Director, Central Region of the completion of all remedial requirements along with documentation of completion.
5. It is requested (not mandated) that Explorer Pipeline Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Central Region. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.