

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

VIA ELECTRONIC MAIL TO: kelcy.warren@energytransfer.com ,
ryan.coffey@energytransfer.com and Eric.Amundsen@energytransfer.com

September 9, 2020

Mr. Kelcy Warren
Chief Executive Officer
Energy Transfer, LP
8111 Westchester Drive
Dallas, Texas 75225

CPF 3-2020-1005

Dear Mr. Warren:

On various dates from March 4, 2019 through September 20, 2019, representatives 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 your Panhandle Eastern Pipeline Company (PEPL) records and procedures in Houston, Texas and conducted records, facilities, and right of way inspections in Oklahoma, Kansas, Missouri, and Illinois.

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

1. §192.167 Compressor stations: Emergency shutdown.

(a) Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

(1) . . .

(4) It must be operable from at least two locations, each of which is:

- (i) Outside the gas area of the station;**
- (ii) Near the exit gates, if the station is fenced, or near the emergency exits, if not fenced; and**
- (iii) Not more than 500 feet (153 meters) from the limits of the station**

PEPL failed to provide operable emergency shutdown (ESD) systems in at least two locations, each of which was outside the gas area of the compressor station and near the exit gates of the fenced stations as required by §192.167(a)(4)(ii). PEPL's Olpe compressor station had new units installed after 1970 and therefore, PEPL, which is currently fenced in, should have modified the ESD system to meet the requirements of having two ESD switches outside the gas area near the exit gates. During PHMSA's inspection of the Olpe compressor station, the inspectors observed one of the ESD switches located near a vehicle gate that was kept open during occupation and had a nearby man gate that could be opened with a crash bar, and the other ESD switch was located near a vehicle gate that was kept locked and had no man gate nearby. The location of these ESDs were not compliant with §192.167(a)(4)(ii) because one the ESDs was not located near an exit gate, and instead, by a vehicle gate that was locked. Therefore, PEPL is in violation of §192.167(a)(4)(ii) because it failed to have ESDs in at least two locations at the Olpe compressor station, each of which was outside the gas area of the fenced in station and near the exit gates.

2. §192.605 Procedural manual for operations, maintenance, and emergencies

(a) . . .

(b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) . . .

(3) Making construction records, maps, and operating history available to appropriate operating personnel.

PEPL failed to follow its operation and maintenance (O&M) manual to ensure it made available accurate maps to appropriate operating personnel. During the inspection, PHMSA inspectors observed that the field maps and the electronic database that PEPL made available to field employees had incorrect mapping at four locations.

Two major inaccuracies were identified on PEPL's mapping records. First, PEPL's map showed over half of the Preston lateral, which is approximately 2 miles long, was located on the wrong side of the road. Second, PEPL's map for the Bowling Green lateral, which was less in length than the Preston lateral, showed a pipeline crossing to the west side of the road that stayed there for a few hundred feet before returning to the east side of the road. However, the Preston lateral never crossed the road in this area as shown when PEPL located the line during the field inspection.

Additionally, two minor inaccuracies were also identified on PEPL's mapping records for the Windsor lateral. PEPL's mapping record did not reflect that the pipeline had been rerouted to maintain distance from a shop that was constructed by the land owner, and at a location known as Bison Station, associated piping being had been removed. Furthermore, the new pipe laid to reconnect the pipeline was not added to the maps.

3. §192.709 Transmission lines: Record keeping.

(a) . . .

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

PEPL failed to retain records of each patrol, survey, inspection, and test required by subpart M of part 192 for at least 5 years or until the next patrol, survey, inspection, or test is completed, or whichever is longer. Specifically, PEPL failed to retain records showing inspection and testing of pressure-limiting and regulating stations completed in 2017 per requirements of §192.739(a) for the Guymon Hansford Unit and Liberal (DCP) Unit.

During the inspection, PEPL was unable to produce the 2017 inspection and testing records for 78 pressure limiting and regulating devices at these locations. PEPL explained that a contractor was used to perform relief valve and regulating station inspections and testing, but the contracting company went out of business and the records of their work completed for the year 2017 could not be obtained by PEPL. The only records that PEPL could produce were records for the work performed prior to 2017 and an invoice for work completed in the year 2017. Therefore, PEPL failed to retain inspection and test records for pressure-limiting and regulating devices for at least five years as required by §192.706(c).

4. **§192.745 Valve maintenance: Transmission lines.**

- (a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.**

PEPL failed to inspect and partially operate transmission line valves that might be required during an emergency at intervals not exceeding 15 months, but at least once each calendar year. PHMSA inspectors identified during the records inspection that in the Guymon/Hansford Area (Unit 18904), there were 80 valves which were not inspected at least once each calendar year. Specifically, these 80 valves, which PEPL recorded as being DOT regulated, which means requiring to be inspected per §192.745 because they might be required during an emergency, were not inspected during calendar year 2017. Additionally, PHMSA inspectors identified that 35 similar valves in the Liberal(DCP)/Satanta (Unit 82882) were not inspected within the 15-month inspection interval from 2016 to 2018. PEPL was the owner of these pipelines from 2016 to 2018, with DCP providing operations and maintenances activities in which 115 transmission valves failed to meet the regulatory requirements.

5. **§192.905 How does an operator identify a high consequence area?**

(a) . . .

- (c) Newly identified areas. When an operator has information that the area around a pipeline segment not previously identified as a high consequence area could satisfy any of the definitions in § 192.903, the operator must complete the evaluation using method (1) or (2). If the segment is determined to meet the definition as a high consequence area, it must be incorporated into the operator’s baseline assessment plan as a high consequence area within one year from the date the area is identified.**

PEPL failed to complete an evaluation to identify a high consequence area (HCA) using method (1) or (2) from the definition of “High Consequence Area” contained in §192.903 when PEPL had information that the area around a pipeline segment not previously identified as an HCA could satisfy any of the definitions in § 192.903. Specifically, PEPL did not act upon new information in an area that was not previously identified as a HCA. On July 13, 2007, PEPL personnel investigated a fireworks store that was built 230 feet from its pipeline, adjacent to the right-of-way, and found the store to have an occupancy of 3 people, 6 days a week, for 52 weeks per year. Since the initial assessment in 2007, the business expanded three times. The store expanded parallel to the pipeline in 2011 and again in 2014. In 2017, the store expanded from the back of the business toward the pipeline. Aerial imagery shows the expansions. However, during the inspection, PEPL was unable to produce any records confirming it performed an evaluation to determine if the segment met the definition of HCA.

In October 2019, after PHMSA inspectors inquired about PEPL's knowledge of this business' expansion, and whether PEPL completed an evaluation under §192.905(c), PEPL personnel contacted the store and received new information. The store was found to have at least 21 people, 7 days a week for approximately 8.5 weeks per year, with less than 10 people per day for the rest of the year. Although this new information did not meet the definition of an HCA, PEPL failed to follow-up on information received from patrolling and other notifications to perform the required evaluation under §192.905(c).

6. §192.937 What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(a) . . .

(b) Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure the integrity of each covered segment. The periodic evaluation must be based on a data integration and risk assessment of the entire pipeline as specified in §192.917. For plastic transmission pipelines, the periodic evaluation is based on the threat analysis specified in §192.917(d) For all other transmission pipelines, the evaluation must consider the past and present integrity assessment results, data integration and risk assessment information (§192.917), and decisions about remediation (§ 192.933)and additional preventive and mitigative actions (§ 192.935).An operator must use the results from this evaluation to identify the threats specific to each covered segment and the risk represented by these threats.

PEPL failed to follow its integrity management plan for performing a continual process of evaluation and assessment to maintain its pipeline integrity. As part of its periodic evaluation, PEPL's Integrity Management Plan Section 5.1 states: "Risk Assessment is run annually on each HCA-managed segment to capture year -to-year changes in operation, maintenance, and integrity-related activities." PEPL failed to run its risk model yearly in 2017 and 2018. The last record of risk model results was for 2016.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violations occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violations 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. We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$226,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 3	\$ 20,400
Item 4	\$145,000
Item 6	\$ 61,100

Warning Items

With respect to items 2 and 5, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to items 1 and 6, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Panhandle Eastern 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 Enforcement Proceedings*. Please refer to this document and note the response options. All material you 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 receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2020-1005** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

William I. Rush
Acting Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

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

cc: Mr. Ryan Coffey, Executive Vice President, Operations, Energy Transfer, dba Panhandle Eastern Pipeline Company, 800 E. Sonterra Blvd. #400, San Antonio, TX 78258
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Mr. Eric Amundsen, Senior Vice President, Energy Transfer, dba Panhandle Eastern Pipeline Company, 1300 Main Street, Houston, TX 77002,
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PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Panhandle Eastern Pipe Line Company (PEPL) a Compliance Order incorporating the following remedial requirements to ensure the compliance of PEPL with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to the location of emergency shutdowns at the Olpe compressor station, PEPL must install or otherwise make provisions for an exit gate near ESD #3 that meets the requirements in §192.163(d).
2. In regard to Item 6 of the Notice pertaining to PEPL's failure to run its risk model yearly as required by its procedures, PEPL must run its risk model and integrate the results so it can track its year to year changes.
3. PEPL must complete the requirements of Items 1 and 2 of the Compliance Order within 90 days of receipt of a final order and provide documentation to Director, Central Region, OPS Pipeline and Hazardous Materials Safety Administration.
4. It is requested (not mandated) that PEPL maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Central Region, Pipeline and Hazardous Materials Safety Administration. 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.