



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

DEC 30 2010

1200 New Jersey Ave., SE
Washington, DC 20590

Mr. Terry L. Hurlburt
Senior Vice President, Operations
Enterprise Products Operating, LLC
P. O. Box 4324
Houston, TX 77210-4324

Re: CPF No. 4-2009-5010

Dear Mr. Hurlburt:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one allegation of violation, makes two findings of violation, assesses a civil penalty of \$53,400, and finds that Texas Eastern Products Pipeline Company, LLC, has completed the actions specified in the Notice to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R. M. Seeley, Director, Southwest Region, PHMSA

Mr. Josh E. Kohler
Manager, Pipeline Compliance
Texas Eastern Products Pipeline Company, LLC
1100 Louisiana Street, Suite 1600
Houston, TX 77002-5227

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0040 0030]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
Texas Eastern Products)	
Pipeline Company, LLC,)	CPF No. 4-2009-5010
)	
a subsidiary of)	
Enterprise Products Operating, LLC,)	
)	
Respondent.)	

FINAL ORDER

On October 21-24 and 27-31, 2008, and January 15, 2009, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Texas Eastern Products Pipeline Company, LLC (TEPPCO or Respondent), in Louisiana and Texas. Following a merger with subsidiaries of Enterprise Products Partners, L.P., on October 26, 2009, TEPPCO is now a wholly-owned subsidiary of Enterprise Products Operating, LLC (Enterprise).¹ At the time of the inspection, TEPPCO's system included 4,500 miles of pipelines carrying refined petroleum products and highly volatile liquids.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 31, 2009, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that TEPPCO had committed various violations of 49 C.F.R. Part 195, assessing a civil penalty of \$72,400 for the alleged violations, and ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warning Respondent to take appropriate corrective action or be subject to future enforcement action.

TEPPCO responded to the Notice by letter dated October 8, 2009 (Response). The company contested one of the allegations and described the steps it had taken to complete the terms of the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

¹ SEC Form 10-K, Enterprise Products Partners, L.P., March 1, 2010.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 – Overpressure safety devices and overflow protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 ½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to conduct required inspections of two pressure control valves at intervals not exceeding 7½ months, but at least twice each calendar year. Specifically, the Notice alleged that Respondent could not provide documentation to indicate that the Hankamer Station valves, which are part of a pipeline used to carry highly volatile liquids, were inspected twice in 2007 and 2008.

In its Response, the company provided copies of records indicating that the valves at issue were actually inspected twice in 2007 and 2008, as required. Accordingly, after considering all of the evidence, I find that Respondent did not violate § 195.428(a). Based upon the foregoing, I hereby order that Item 3 be withdrawn.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(d), which states:

§ 195.428 – Overpressure safety devices and overflow protection systems.

(a)

(d) After October 2, 2000, the requirements of paragraphs (a) and (b) of this section for inspection and testing of pressure control equipment apply to the inspection and testing of overflow protection systems.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(d) by failing to conduct required inspections and tests of the overflow protection systems of three breakout tanks at Beaumont Terminal at intervals not exceeding 15 months, but at least once each calendar year. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(d) by failing to inspect and test the overflow protection systems of three breakout tanks with the required frequency.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. §§ 195.589(c) and 195.573(a)(1), which state:

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

(a)

(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, except that records related to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

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

(a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with §195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months

The Notice alleged that Respondent violated 49 C.F.R. §§ 195.589(c) and 195.573(a)(1) by failing to conduct and maintain records of required corrosion control tests at certain pipeline locations. Specifically, the Notice alleged that at the time of the inspection, TEPPCO's records indicated that pipe-to-soil surveys were not conducted at 19 locations in 2007. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. §§ 195.589(c) and 195.573(a)(1) by failing to conduct and maintain records of required corrosion control tests at certain pipeline locations.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

The Notice proposed a total civil penalty of \$72,400 for the violations cited above.²

Item 3: The Notice proposed a civil penalty of \$19,000 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to carry out required inspections of overpressure valves. As discussed above, I ordered that the allegations in Item 3 be withdrawn. Accordingly, I also withdraw the proposed penalty for this Item.

Item 4: The Notice proposed a civil penalty of \$32,900 for Respondent's violation of 49 C.F.R. § 195.428(d), for failing to conduct required inspections and tests of the overfill protection systems of three breakout tanks. Respondent did not object to the proposed civil penalty.

Overfill protection systems provide crucial protection against spills. Regular inspections and tests of such systems are key to ensuring that these systems operate properly. In this case, Respondent failed to inspect and test three breakout tanks. Respondent has provided no information that would justify a reduction in the proposed civil penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$32,900 for violation of 49 C.F.R. § 195.428(d).

Item 5: The Notice proposed a civil penalty of \$20,500 for Respondent's violation of 49 C.F.R. §§ 195.589(c) and 195.573(a)(1), for failing to conduct and maintain records of required corrosion control tests at certain pipeline locations. Respondent did not object to the proposed civil penalty.

Regular pipe-to-soil surveys are crucial to measuring the effectiveness of corrosion control measures and indentifying areas at risk of corrosion. Maintaining adequate protection against corrosion, in turn, protects against potentially dangerous pipeline leaks and releases. In this case, Respondent failed to conduct annual tests at nineteen locations. Respondent has provided no information that would justify a reduction in the proposed civil penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,500 for violation of 49 C.F.R. §§ 195.589(c) and 195.573(a)(1).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$53,400**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

² The Notice incorrectly stated that the total proposed civil penalty was \$72,500.

Failure to pay the \$53,400 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 3, 4, and 5 in the Notice for violations of 49 C.F.R. §§ 195.428(a), 195.428(d), 195.589(c), and 195.573(a)(1). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

Because I ordered that the allegations in Item 3 be withdrawn, the compliance terms proposed for that Item are not included in this order.

The Director has indicated that Respondent has taken the following actions to address the cited violations:

1. With respect to Item 4, Respondent has:
 - a. reviewed its procedures for the inspection of overfill protection systems,
 - b. inspected the overfill protection for the breakout tanks referenced in Item 4, and
 - c. provided documentation indicating that these inspections have been performed.

2. With respect to Item 5, Respondent has:
 - a. reviewed its procedures on performing cathodic protection testing,
 - b. performed pipe-to-soil surveys of the P-2 and P-62 pipelines, including the areas that were not tested in 2006 and 2007, and
 - c. provided documentation indicating that these surveys have been performed.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 4 and 5 are not included in this Order.

WARNING ITEMS


With respect to Items 1 and 2, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.402(a) **(Item 1)** — Respondent's alleged failure to follow its written procedures relating to inspections of firefighting equipment; and

49 C.F.R. § 195.402(a) **(Item 2)** — Respondent's alleged failure to inspect shorted casing vents every six months, as required by the company's written procedures.

Respondent presented information in its Response showing that it had taken certain actions to address the cited items. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.402(a) (Notice Items 1 and 2) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

DEC 3 0 2010

Date Issued