

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 31, 2009

Mr. Terry Hulbert
Senior Vice President – Operations
TE Products Pipeline Company, LLC
1100 Louisiana Street
Houston, Texas 77002-5227

CPF 4-2009-5010

Dear Mr. Hulbert:

From October 21 – 24, October 27 – 31, 2008, and January 15, 2009, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your records and pipeline facilities in the Louisiana and Texas.

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. §195.402 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 system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

TE Products procedures for fire fighting equipment states that fire fighting equipment will be located at each pump station and breakout tank area. It also states that the fire fighting equipment must be in proper operating condition at all times and that local personnel or contract services shall inspect all fire fighting equipment monthly. TE

personnel are not following their written procedures for fire fighting equipment. During the records inspection, it was understood that Baytown is where official records reside. During the records evaluation of TE Products, personnel had difficulty in locating records to indicate that items were inspected according to your written procedures. Personnel were unable to locate records to indicate that the fire fighting equipment was inspected for Many pump station for the months of June 2007 and August 2007. Also, personnel were unable to provide inspection records for August 2008 for the Tyler Station to indicate that fire fighting equipment was inspected.

Also, at the Beaumont Terminal, records did not indicate that paperwork was filled out according to your procedures. Records were incomplete, dates of the next hydro test date, any comments or the Supervisor's signature was not on monthly inspection report.

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 system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

TE Products procedures (Cathodic Protection Annual Survey) states that shorted casing vents shall be checked with a gas detector for signs of leakage every six months until the short is cleared or the casing is filled with corrosion inhibitor. At the time of the inspection, inspectors were provided records that would indicate that shorted casings were not checked every six months. According to these records, they were only checked once each calendar year. This office understands that TE has a new technician that has identified this as a high priority and has taken steps to assure that this does not happen again.

3. §195.428 Overpressure safety devices and overfill 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 ear, 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.

At the time of the inspection, TE Products could not provide documentation to indicate that at the Hankamer Pressure Control Valves were inspected twice each calendar year for 2007 and 2008. Records were provided for the June 2007 inspection, but there were

no other records available during the inspection to indicate that the control valves were inspected twice each calendar year for 2007 or 2008.

4. §195.428 Overpressure safety devices and overflow protection systems.

§195.428(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.

At the Beaumont Terminal, there are three tanks (Breakout tank # 734, 735, and 771) that the overflow protection has not been tested. According to TE Product records, inspectors performing the inspections on these tanks have noted time and time again that they were unable to test. This indicates that when personnel perform their duties in inspecting breakout tanks and note deficiencies that these deficiencies are not being acted upon.

5. §195.589 What corrosion control information do I have to maintain?

§195. 589(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 (a)(1) Protected pipeline. 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.

TE Products conducted their pipe-to-soil surveys in November of 2006 and again in November of 2007. During the inspection, the inspectors reviewed your 'TEPPCO Products P/S Survey' records and there are 19 locations that were not tested in 2007 for the P-2 and P-62 pipelines. The records indicate that the 'Water too high to access', 'No test lead', 'Hunters in ROW', or 'Not allowed access by landowner'. At the time of the inspection these locations still had not been surveyed, exceeding once each calendar year, not to exceed 15 months. TE Products had not conducted the 2008 survey at the time of the inspection.

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 \$72,500.00 as follows:

<u>Item number</u>	<u>PENALTY</u>
3	\$19,000
4	\$32,900
5	\$20,500

Warning Items

With respect to items 1 and 2 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. Be advised that failure to do so may result in TE Products Pipeline Company, LLC being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 3, 4, and 5, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to TE Products Pipeline Company, 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 4-2009-5010** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley
Director, Southwest 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 TE Products Pipeline Company, LLC, a Compliance Order incorporating the following remedial requirements to ensure the compliance of TE Products Pipeline Company, LLC with the pipeline safety regulations:

1. In regard to Item Number 3 of the Notice pertaining to the pressure control valves at Hankamer:
 - a. Review procedures for the inspection of pressure control valves, and modify the procedures to assure that employees understand what is required during the inspection of pressure control valves and how to fill out the appropriate inspection reports.
 - b. Perform the inspection of the pressure control valves at Hankamer.
 - c. Submit completed procedures and the records to indicate that the inspection has been completed.
2. In regard to Item Number 4 of the Notice pertaining to the overfill protection at the Beaumont Terminal, TE Products will:
 - a. Review procedures for the inspection of overfill protection, and modify the procedures. Review the modified procedures with employees to assure that they understand their responsibilities. Also, assure that management understands that when deficiencies are found, they know their responsibilities in correcting the deficiency.
 - b. Perform the inspection of the overfill protection for Breakout tanks #734, 735, and 771.
 - c. Provide documentation to indicate that the inspections have been performed.
3. In regard to Item Number 5 of the Notice pertaining to the pipe-to-soil surveys for the P-2 and P-62:
 - a. Review procedures for performing cathodic protection testing, and modify the procedures if necessary. Review the procedures with employees to assure that they understand their roles and responsibilities.
 - b. Perform the pipe-to soil surveys of the P-2 and P-62, including those areas that were not accessible during the 2006 and 2007 surveys.
 - c. Provide documentation to indicate that the inspections have been performed, including the locations that were not tested in 2006 and 2007.
5. TE Products Pipeline Company, LLC shall complete the items above within 60 days after receipt of the Final Order.
6. TE Products Pipeline Company, LLC shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, Director, Southwest 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.