

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

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 1, 2009

Mr. Leonard W. Mallet  
Senior Vice President, Operations  
TE Products Pipeline, LLC  
PO Box 2521  
Houston, TX 77252-6500

**CPF 4-2009-5011**

Dear Mr. Mallet:

As part of an investigation of a pipeline accident which occurred on November 18, 2007, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your TE Products Pipeline, LLC (TEPPCO) Egypt Pump Station near Walnut Ridge, AR.

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 violation(s) 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 commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.**

The operator's procedure for retaining a valve (suspected in causing an incident release; as reported by the operator) was insufficient in establishing a chain of custody for the valve prior to its transfer to an independent testing laboratory. This insufficiency led to loss of the suspect component thus preventing the requisite testing of the valve to determine its role in the release/incident.

Following the release of approximately 5800 barrels of propane on November 11, 2007, at TE Products Pipeline, LLC's (TEPPCO's) Egypt Pump Station, TEPPCO removed a two inch sump line valve connected to the pump suspected of being the point source of the release/incident. It was to be temporarily stored at the Egypt Station warehouse pending delivery to a testing laboratory.

As explained by TEPPCO, the loss of the valve resulted from the following factors:

- "TEPPCO does not have a formal procedure once the valve has been taken out of the ground and put into the warehouse.
- There is a procedure once engineering has designated a lab where the valve changes custody. Under normal circumstances there is a procedure for custody transfer when the valve leaves our possession for transportation to a metallurgy lab. Several things were in play here.
- This is a very large warehouse and the valve had been stored for over a year awaiting designation.
- The valve was thrown out accidentally during the annual cleaning of this warehouse.
- The valve was thrown out 1 day prior to receiving the instructions for sending valve to a lab.
- The operations people tried to retrieve the valve in question from the scrap yard as it had been delivered less than 24 hours to the scrap yard.
- This is a very infrequent occurrence for the operation's people that a procedure had not been developed."

TEPPCO further communicated that,

"Operations are preparing a document to cover the storage and safety of pipeline appurtenances prior to designation to a lab."

At the time of the incident, TEPPCO's internal procedures for maintaining a chain of custody for suspect components involved in incidents or releases were inadequate to comply with the regulations. The valve was lost and therefore the requisite laboratory testing was not performed due to inadequate procedures.

## **2. 195.402 Procedural manual for operations, maintenance, and emergencies.**

**(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

**(5) Analyzing pipeline accidents to determine their causes.**

The operator failed to perform post-accident analyses (laboratory testing) of the suspect valve component, as required by the regulation and the operator's Procedure E-400, Investigation of Failures. Procedures E-400 specifically require,

“All operational failures and accidents involving facilities shall be investigated and analyzed for the purpose of determining the cause and to minimize the possibility of a recurrence.” Additionally, “When possible, salvage materials that can be utilized in a laboratory analysis in an effort to establish the possible cause of the failure or accident. Care shall be taken to preserve these materials in their existing condition so as not to impair their analytical value. A laboratory analysis and/or metallurgical examination of the failed specimen shall be initiated when it is deemed necessary. The laboratory firm shall prepare a full report on the findings of the analysis or examination.”

During the time the valve was being stored, it was inadvertently discarded when it was mistaken for disposable refuse. TEPPCO states the delay in delivering the component for testing was due to contractual delays between the laboratory and TEPPCO; wherein an ownership change had occurred with one of the parties voiding a previous contract. This required the negotiations and execution of a replacement contract for services causing the delay. The subject valve was errantly discarded during this period.

By not performing the requisite laboratory testing of the suspect component, the operator violated the regulation. The valve was lost and therefore requisite laboratory testing was not performed.

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 \$17,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
2.	\$17,500

Proposed Compliance Order

With respect to item number 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to TE Products Pipeline, 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 4-2009-5011** 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, LLC (TEPPCO) a Compliance Order incorporating the following remedial requirements to ensure the compliance of TE Products Pipeline, LLC with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to TEPPCO's procedures for maintaining a chain of custody (internally), for suspect components involved in incidents or releases, were found to be inadequate to comply with the regulations.

TEPPCO must amend its procedures to ensure an internal chain-of-custody is established to secure items/components suspected involved in incidents/releases for requisite laboratory testing thus preventing future similar acts involving the loss of material evidence from recurring.

2. TEPPCO shall have such an amendment to its procedures in place within 30 days from the date of issuance of the Final Order.
3. TEPPCO 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.