

NOTICE OF PROBABLE VIOLATION

**PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 22, 2010

Mr. Terry Hurlburt
Senior Vice President
Texas Eastern Products Pipeline Company, LLC
P. O. Box 4735
Houston, Texas 77210-4735

CPF 4-2010-5011

Mr. Hurlburt:

In May, 2009, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code investigated an accident that occurred on May 12, 2009 at Texas Eastern Products Pipeline Company, LLC's (TEPPCO) McRae Product Terminal near Garner, AR.

As a result of the accident investigation, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. **§195.54 Accident reports.**
 - (a) **Each operator that experiences an accident that is required to be reported under §195.50 shall as soon as practicable, but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.**
 - (b) **Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.**

TEPPCO failed to file a supplemental report for the McRae Product Terminal facility accident that occurred on May 12, 2009 within 30 days after the failure investigation report was obtained that provided information on the probable cause of failure. On May 12, 2009, at approximately 2:17 p.m. CST, an explosion occurred in a gasoline storage tank, Tank 1303, at TEPPCO's McRae Product Terminal near Garner, AR. Three contractor employees were fatally injured in the explosion. A failure analysis was performed by Baker Engineering and Risk Consultants, Inc (BakerRisk) of San Antonio, TX. The probable cause of the explosion was determined to be deflagration of a flammable gasoline/air mixture inside the floating roof pontoons, created by leakage of gasoline vapors into the pontoons, and which was ignited by an oxygen/acetylene cutting torch being used by C&C Welding personnel. The BakerRisk Report # 01-02565-001-09 was provided by BakerRisk to the operator on or about March 5, 2010. As of May 19, 2010, a supplemental PHMSA 7000-1 report has not been filed, updating the original report with the final failure report information as to the cause of the accident. There have also not been any losses estimated by TEPPCO as a result of this accident in the PHMSA 7000-1 report on file (20090164-8872).

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 \$22,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 22,500

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 TEPPCO. 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 4-2010-5011** 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 Texas Eastern Products Pipeline Company, LLC (TEPPCO) a Compliance Order incorporating the following remedial requirements to ensure the compliance of TEPPCO with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to failure to comply with the requirements of §195.54, TEPPCO must immediately file a supplemental DOT Form 7000-1 report for number 20090164 specifying the cause of failure of the Tank 1303 explosion at the McRae Products Terminal near Garner, AR on May 12, 2009 and updating any other information obtained since the accident. If all of the information about the accident is known, this information must be included and the accident report filed as a final report.
2. 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.