



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

Mr. A. J. Teague
Director and Chief Executive Officer
Enterprise Products Partners, LP
1100 Louisiana Street
Houston, Texas 77002

OCT 05 2016

Re: CPF No. 4-2015-5023

Dear Mr. Teague:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$57,600 against your subsidiary, Enterprise Crude Pipeline, LLC. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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,

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Graham Bacon, Executive Vice President, Operations & Engineering, Enterprise Products Operating, LLC
Mr. Craig W. Murray, Group Senior Vice-President and General Counsel, Enterprise Products Operating, LLC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)	
)	
Enterprise Crude Pipeline, LLC,)	CPF No. 4-2015-5023
 a subsidiary of Enterprise Products Partners, LP,)	
)	
Respondent.)	
)	

FINAL ORDER

On multiple occasions between August 2013 and May 23, 2014, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted on-site pipeline safety inspections of the facilities and records of Enterprise Crude Pipeline, LLC (EP Crude or Respondent), in New Mexico, Oklahoma, and Texas. Respondent, a subsidiary of Enterprise Products Partners LP,¹ operates 867 miles of crude-oil pipelines in New Mexico, Oklahoma, and Texas.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated October 14, 2015, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that EP Crude had twice violated 49 C.F.R. § 195.432, and proposed assessing a civil penalty of \$57,600 for the alleged violations. The warning items required no further action, but warned the operator to take appropriate corrective action to address them or be subject to future potential enforcement action.

EP Crude responded to the Notice by letter dated November 12, 2015 (Response). Respondent did not contest the allegations of violation but provided an explanation of its actions. The company did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, EP Crude did not contest the allegations in the Notice that it violated 49 C.F.R.

¹ Enterprise Products Partners LP, Operations – Crude Oil Pipelines & Services, website: <http://www.enterpriseproducts.com/operations/onshoreCrudePipeServ.shtm> (last accessed on March 21, 2016).

² Pipeline Safety Violation Report (Violation Report), (October 13, 2015) (on file with PHMSA), at 1.

Part 195, as follows:

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a) . . .

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to API Standard 653 (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3).³

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric breakout tanks according to API Standard 653 (API 653). Specifically, the Notice alleged that EP Crude's inspection records for in-service breakout Tank 1009 (Tank 1009), located in Cushing, Oklahoma, between 5/10-11/2005 and 4/5/2012, showed Respondent had exceeded the five-year interval for conducting a visual external inspection of Tank 1009, as required by § 6.3.2.1 of API 653.

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. § 195.432(b) by exceeding the five-year interval for conducting a visual external inspection of Tank 1009, as required by § 6.3.2.1 of API 653.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), as quoted above, by failing to inspect the physical integrity of in-service atmospheric breakout tanks according to API 653. Specifically, the Notice alleged that EP Crude's inspection records for Tank 1009, as described above, between 5/10-11/2005 and 4/5/2012, showed Respondent had exceeded the five-year interval for conducting an ultrasonic thickness inspection of the tank shell of Tank 1009, as required by § 6.3.3.2 of API 653.

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. § 195.432(b) by failing to perform an ultrasonic thickness inspection of the tank shell of Tank 1009 once every five years, as required by § 6.3.3.2 of API 653.

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

³ Section 195.432(b) has since been amended, but the version quoted here was in effect at the time of the Notice.

\$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴

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; 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 \$57,600 for the violations cited above.

Item 3: The Notice proposed a civil penalty of \$28,800 for Respondent's violation of 49 C.F.R. § 195.432(b), for exceeding the five-year interval for conducting a visual external inspection of Tank 1009, as required by § 6.3.2.1 of API 653. EP Crude neither contested the allegation nor presented any evidence or argument justifying a reduction in, or elimination of, the proposed penalty.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$28,800 for violating § 195.432(b).

Item 4: The Notice proposed a civil penalty of \$28,800 for Respondent's violation of 49 C.F.R. § 195.432(b), for exceeding the five-year interval for performing an ultrasonic thickness inspection of the tank shell of Tank 1009, as required by § 6.3.3.2 of API 653. EP Crude neither contested the allegation nor presented any evidence or argument justifying a reduction in, or elimination of, the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$28,800 for violating § 195.432(b).

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 **\$57,600**.

Payment of the civil penalty must be made within 20 days of service of this Final Order. Payment may be made by sending a certified check or money order (containing the CPF Number for this case), made payable to "U.S. Department of Transportation," to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMK-325), P.O. Box 269039, Oklahoma City, Oklahoma 73125. Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit 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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

⁴ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

Failure to pay the \$57,600 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.

WARNING ITEMS

With respect to Items 1, 2 and 5, 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:

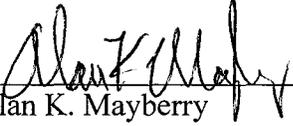
49 C.F.R. § 195.430 (**Item 1**) — Respondent's failure to have firefighting equipment stored in an easily accessible location at its Wildfire Station #2 in Midland County, Texas. Specifically, the Notice alleged that the station did not have a fire extinguisher within the pump station fence perimeter;

49 C.F.R. § 195.432(b) (**Item 2**) — Respondent's failure to follow API 653 in conducting routine monthly inspections of the physical integrity of Tank Nos. 5610, 5611, 5617, 5618, 5650, 5653, and 5654 at its facilities in Midland County, Texas; and

49 C.F.R. § 195.452(g) (**Item 5**) — Respondent's failure to analyze all available information relating to the integrity of its Line S1 pipeline, including information regarding the presence of stress corrosion cracking.

EP Crude presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

OCT 05 2016

Date Issued