



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

DEC 20 2018

Mr. A. J. Teague
Director and Chief Executive Officer
Enterprise Products Partners, LP
1100 Louisiana Street, 10th Floor
Houston, TX 77002

Re: CPF No. 4-2017-5035

Dear Mr. Teague:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Enterprise Products Operating LLC. It withdraws one alleged violation and associated civil penalty, makes a finding of violation for another, assesses a civil penalty of \$33,500, and specifies actions that need to be taken by Enterprise 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 and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. James B. Curry, Esq., and Brianne K. Kurdock, Esq., Babst, Calland, Clements and
Zomnir, PC, 505 9th Street, N.W., Suite 700, Washington, D.C. 20004, Counsel for
Enterprise Products Operating, LLC
Mr. Graham W. Bacon, Executive Vice President, Operations and Engineering,
Enterprise Products Partners, LP

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 Products Operating, LLC,
a subsidiary of Enterprise Products Partners, LP,**

Respondent.

CPF No. 4-2017-5035

FINAL ORDER

From January 9 through May 24, 2017, pursuant to 49 U.S.C. § 60117, a representative 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 Enterprise Products Operating, LLC (EPO or Respondent), in Houston, Texas. EPO is a wholly-owned subsidiary of Enterprise Partners, LP (Enterprise).¹ Enterprise conducts substantially all of its operations through EPO, including more than 50,000 miles of pipeline and approximately 260 million barrels of hazardous-liquid storage capacity.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated November 2, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (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 Enterprise had violated 49 C.F.R. §§ 195.507 and 195.575(e) and proposed assessing a civil penalty of \$69,700 for the alleged violations.³ The Notice also proposed ordering Respondent to take certain measures to correct one of the alleged violations. The warning items required no further action but warned the operator to correct the probable violations or face possible future enforcement action.

¹ Enterprise Products Partners, LP, Form 10-Q submitted to U.S. Securities and Exchange Commission, *available at* <http://services.corporate-ir.net/SEC/Document.Service?id=P3Vybd1hSFIwY0RvdkwyRndhUzUwWlc1cmQybDZZWEprTG1OdmJTOWtiM2R1Ykc5aFpDNXdhSEEvWVdOMGFXOXVQVkJFUmlacGNHRm5aVDB4TWpNNU5UYzJOaVp6ZFdKemFXUTIOVGM9JnR5cGU9MiZmbj1FbnRlcnByaXNlUHJvZHVjdHNQYXJ0bmVyc0wucGRm> (last accessed November 8, 2018).

² Enterprise Products Partners, LP, website, *available at* <https://www.enterpriseproducts.com/about-us/business-profile> (last accessed November 8, 2018).

³ The Notice was issued in conjunction with a separate Notice of Amendment (CPF No. 4-2017-5036M). An Order Directing Amendment in that case will be issued separately.

After requesting and receiving an extension of time to respond, Enterprise responded to the Notice by letter dated February 28, 2018 (Response). Respondent contested one of the allegations and requested a hearing on that item. By email dated May 4, 2018, Respondent withdrew its request for a hearing and thereby authorized the entry of this Final Order without further notice.

FINDING OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.507, which states, in relevant part:

§ 195.507 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) . . .

(3) Date(s) of current qualification; and

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

The Notice alleged that Respondent violated 49 C.F.R. § 195.507 by failing to maintain operator qualification (OQ) records for individuals performing covered tasks on three pipelines. Specifically, the Notice alleged that Enterprise did not maintain current qualification records for individuals performing covered tasks under the mutual-assistance requirements of Enterprise's OQ plan. The three pipelines at issue were the Koch Pipeline, Conoco Phillips, and Energy Transfer (Lone Star NGL) pipelines. Section 4 of Enterprise's OQ plan required Enterprise to maintain records for each individual's current qualification by reevaluating such individuals at least once every five years. The OQ records for all three of the pipelines at issue were last evaluated in 2011; accordingly, the OQ records should have been reevaluated in 2016.

In its Response, Enterprise did not contest the allegations of Item 1 and provided information about updates it had made to its OQ plan. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.507 by failing to maintain OQ records for individuals performing covered tasks on three pipelines.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.575(e), which states:

§ 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(a)

(e) If a pipeline is in close proximity to electrical transmission tower footings, ground cables, or counterpoise, or in other areas where it is reasonable to foresee fault currents or an unusual risk of lightning, you must protect the pipeline against damage from fault currents or lightning and take protective measures at insulating devices.

The Notice alleged that Respondent violated 49 C.F.R. § 195.575(e) by failing to protect a pipeline against damage from fault currents or lightning and take protective measures at insulating devices. Specifically, the Notice alleged that Enterprise failed to protect the company's Chaparral Line, which runs in close proximity to electrical transmission power lines between Mont Belvieu and Bryan, Texas.

In its Response, Enterprise contested this allegation of violation. Following Enterprise's response, pursuant to § 190.209(b)(7), the Director has recommended withdrawal of this item, and simultaneously, on May 3, 2018, the Director issued a separate Notice of Probable Violation and Proposed Compliance Order addressing this alleged violation.⁴ Accordingly, Item 2 and its associated proposed penalty are withdrawn without prejudice.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁵ 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 \$69,700 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$33,500 for Respondent's violation of 49 C.F.R. § 195.507, for failing to maintain OQ records for individuals performing covered tasks on three pipelines. Respondent did not contest this violation or the proposed civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$33,500** for violation of 49 C.F.R. § 195.507.

Item 2: The Notice proposed a civil penalty of \$36,200 for Respondent's violation of 49 C.F.R. § 195.575(e), for failing to protect a pipeline against damage from fault currents or lightning and

⁴ The May 3, 2018 Notice was issued under case number CPF No. 4-2018-5009. Enterprise responded to that case by letter dated June 7, 2018. That case is being adjudicated separately under 49 C.F.R. § 190.213.

⁵ These amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

take protective measures at insulating devices. For the reasons stated above, Item 2 is withdrawn and, therefore, the proposed penalty for the alleged violation of 49 C.F.R. § 195.575(e) is not assessed.

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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$33,500 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 Item 1 in the Notice for a violation of 49 C.F.R. § 195.507. 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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.507 (**Item 1**), Respondent must revise its procedures to ensure that all persons carrying out qualified tasks under its mutual assistance program are qualified, and must maintain records showing current qualifications. Respondent must submit the revised procedures and other records necessary for compliance with this item within 30 days after receipt of this Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for

each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEMS

With respect to Items 3, 4, 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. § 195.402(a) **(Item 3)** — Respondent's alleged failure to update its procedures for conducting close interval surveys;

49 C.F.R. § 195.452(b) **(Item 4)** — Respondent's alleged failure to follow its Integrity Management Program by not incorporating all available information into the risk analysis; and

49 C.F.R. § 195.589(c) **(Item 5)** — Respondent's alleged failure to maintain records containing sufficient detail about corrosion-control measures in place on a segment of pipe.

Enterprise requested withdrawal of Items 3, 4, and 5, alleging that the facts did not support findings of probable violation. Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred or not. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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



Alan K. Mayberry
Associate Administrator
for Pipeline Safety

DEC 20 2018

Date Issued