

July 14, 2020

VIA ELECTRONIC MAIL TO: gbacon@eprod.com

Mr. Graham W. Bacon
Executive Vice President, Operations & Engineering
Enterprise Products Operating, LLC
1100 Louisiana Street, 10th Floor
Houston, Texas 77002

Re: CPF No. 4-2019-5001

Dear Mr. Bacon:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by Enterprise Products Operating, LLC, a subsidiary of Enterprise Products Partners, LP, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by electronic mail is effective upon the date of transmission 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: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. A. J. Teague, Director and Co-Chief Executive Officer, Enterprise Products Partners,
LP, ajteague@eprod.com
Mr. Jeff Morton, Senior Director – Pipeline Compliance, Enterprise Products Partners,
LP, jcmorton@eprod.com

CONFIRMATION OF 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. 4-2019-5001

FINAL ORDER

From November 27, 2017 through June 28, 2018, pursuant to 49 U.S.C. § 60117, representatives 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’s (Enterprise or Respondent) Texas Express System. The Texas Express System transports mixed natural gas liquids from natural gas processing facilities in Northern Texas and Front Range Pipeline in Skellytown, Texas to Enterprise’s fractionation and storage complex in and around Mont Belvieu, Texas.¹ Respondent is a wholly-owned subsidiary of Enterprise Products Partners, LP, which operates approximately 49,200 miles of natural gas, natural gas liquid, crude oil, refined products, and petrochemical transmission and gathering pipelines throughout the United States.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 22, 2019, a Notice of Probable Violation and Proposed Compliance Order (Notice), which also included a warning 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. § 195.402 and proposed ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

Enterprise responded to the Notice by letter dated February 22, 2019 (Response). The company responded to the allegation and offered additional information regarding the actions it planned to take in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

¹ Enterprise Products Partners, LP – NGL Pipelines website, *available at* <https://www.enterpriseproducts.com/operations/ngl-pipelines-services/ngl-pipelines> (last accessed June 30, 2020).

² Enterprise Products Partners, LP – Business Operations website, *available at* <https://www.enterpriseproducts.com/about-us/business-profile> (last accessed June 30, 2020).

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. § 195.403(c)(3), which states:

§ 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

(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:

(1) . . .

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(c)(3) by failing to follow its written procedure for operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of subparts F and H of part 195. Specifically, the Notice alleged that Respondent failed to follow its procedure STD.2600 Fencing, Section 3.8(2)(a) Gate Locations, which states, “Emergency exit gates shall be provided with panic hardware that allows the worker to exit without a key, but provides facility security from the exterior.” The Notice alleged that during the inspection, PHMSA identified four mainline valve locations where locks were in place to prevent unauthorized entry by people or cows. At mainline valves 44, 49, 51, and 53, Enterprise locked each emergency gate preventing them from providing a keyless exit as required by its written procedure.

In its Response, Enterprise did not explicitly state that it contested the alleged violation, but referenced another subsection of its Section 3.8 procedures and provided information concerning actions it planned to take to remediate the alleged violation. Enterprise specifically referred to Section 3.8(1)(a)(ii) Gate Locations, which states, “For small, normally unstaffed locations, such as valve sites, the access gate can be left open while work is being performed. This will provide for the emergency exit.” Enterprise indicated that given Section 3.8(1)(a)(ii), it would be converting the gates at issue in this matter, including mainline valves 44 through 54, to non-emergency exit gates. Enterprise further indicated that it would remove the “Emergency Exit” signs and that company personnel would follow STD.2600 Fencing Section 3.8(1)(a)(ii) by leaving the access gate open while work is being performed at the valve locations.

Although Respondent has provided information concerning actions it planned to take in the future, I find that Enterprise has presented no evidence demonstrating that it was compliant with procedure STD.2600 Fencing, Section 3.8(2)(a) Gate Locations at the four main valve locations listed above at the time of the inspection. In fact, photographic evidence in the record shows the

gate at the mainline valve 49 location was locked with a chain and lock, including from inside the site, thus preventing a keyless exit as required by Section 3.8(2)(a) of its procedure.³ Furthermore, Enterprise's Response is limited to outlining the steps it intends to take to correct the alleged violations; these proposed actions do not negate the alleged violation which PHMSA discovered during the inspection.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(c)(3) by failing to follow its written procedure STD.2600 Fencing Section 3.8(2)(a) Gate Locations.

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

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for the violation of 49 C.F.R. § 195.402(c)(3). 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.

Specifically, the Notice proposed that Enterprise ensure all emergency gates are secured against outside entry with panic hardware capable of functioning as prescribed in its procedure STD.2600 Fencing. As discussed above, Respondent outlined in its Response the steps it intends to take to correct the alleged violation. Specifically, Enterprise stated that it "is converting the gates at Texas Express mainline valve locations where unauthorized entry concerns exist (i.e. mainline valve 44 through 54) to non-emergency exit gates and removing the 'Emergency Exit' signs; and, Company personnel will follow STD.2600 section 3.8(1)(a)(ii) by leaving the access gate open while work is being performed in these valve sites."

In reviewing Enterprise's proposed alternative action, I find it does not appear to be consistent with its own procedures. First, Section 3.8(1) requires Respondent to perform an assessment to determine if emergency gates are needed, and if so, to identify the location(s). Section 3.8(1)(a) states that when perimeter fencing prevents workers from reaching a safe place, then an emergency gate should be provided. Section 3.8(1)(a)(ii) then indicates that for sites, such as mainline valve sites, which only have one access gate, that the access gate will serve as the emergency exit and can remain open while work is being performed. Enterprise's proposed action to re-designate the gates as non-emergency exits does not appear to be consistent with Section 3.8(1), pursuant to which Respondent has already determined that emergency exits at those locations were needed. It also appears inconsistent with Section 3.8(2), which states that if an emergency exit is required from the assessment, it must have panic hardware that allows the worker to exit without a key, but provides facility security from the exterior. Enterprise has not provided any documentation of its determination for the re-designation of the gates at issue to non-emergency gates and how such re-designation is consistent with procedure STD.2600. For

³ Exhibit A to the Pipeline Safety Violation Report at 26 and 27 (on file with PHMSA).

the foregoing reasons, the Compliance Order is modified as set forth below.

Accordingly, Respondent is ordered, pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.402(c)(3) (**Item 1**), Respondent must ensure all Emergency Gates are secured against outside entry and panic hardware capable of functioning as prescribed in STD.2600 Fencing. If, however, Respondent determines that a gate previously identified as an emergency exit (i.e., a gate at mainline valves 44 through 54) is no longer needed to serve as an emergency exit, Respondent must provide documentation and justification of its determination for designating that gate as a non-emergency gate. Such determination must be consistent with Section 3.8, Gate Locations, of Enterprise's procedure STD.2600 Fencing. In the event that the gates remain designated as emergency exits, then Enterprise must provide each emergency gate with panic hardware that allows the worker to exit without a key, but provides facility security from the exterior as prescribed in procedure STD.2600 Fencing.
2. Within 60 days following receipt of this Final Order, Enterprise must provide the Director, Southwest Region, with documentation showing satisfactory completion of Item 1 of this Compliance 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 (not mandated) 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 ITEM

With respect to Item 2, the Notice alleged probable violation of Part 195, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 195.403(b)(1) (**Item 2**) — Respondent's alleged failure to complete a review of a supervisor's performance in meeting the requirements of its

Emergency Response Training program at an interval not exceeding 15 months, but at least once each calendar year.

Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. If OPS finds a violation of this provision 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 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.

July 14, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued