



**By Electronic Mail**

October 4, 2022

Mr. Bryan Lethcoe  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration  
US Department of Transportation  
8701 South Gessner, Suite 630  
Houston, Texas 77074

Re: Permian Express Partners LLC  
Notice of Probable Violation and Proposed Compliance Order  
CPF 4-2022-046-NOPV

Dear Mr. Lethcoe:

Permian Express Partners LLC (PEP or Company) is in receipt of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Notice of Probable Violation (NOPV) and Proposed Compliance Order (PCO) issued on August 05, 2022. By way of background, the Notice was issued following a PHMSA investigation and inspection of the welding real time radiography (RTR) performed on the PEP 24-inch crude oil Permian Express 2 pipeline (PEX II). The Notice detailed two (2) Probable Violations concerning compliance with certain requirements found in 49 C.F.R. Part 195 Subpart D for construction. The PHMSA Notice also included a PCO proposing remedial actions and certain reporting requirements.

On September 1, 2022, PEP requested an extension of 30 days or until October 4, 2022, in order to continue informal discussions that had been initiated by PEP with PHMSA regarding the NOPV and Proposed Compliance Order and to subsequently provide a written response or request a hearing under 49 C.F.R. § 190.211. This extension request was approved by PHMSA on September 2, 2022.

On August 25 and September 16, 2022, respectively, representatives from PHMSA and PEP participated in telephonic meetings during which the parties discussed proposed modifications to the PCO. Although PEP neither admits to nor denies the allegations in the Notice and the Company is not contesting the PHMSA findings, to further the informal discussions PEP submits this timely response in which it has detailed the proposed modifications to the PCO mentioned above.

PEP believes that the requested modifications to the PCO are congruent with maintaining pipeline safety and respectfully requests that after careful consideration, PHMSA issue the Final Order and Compliance Order with these proposed modifications incorporated.

## PHMSA NOPV Allegations

### 1. § 195.202 Compliance with specifications or standards.

**Each pipeline system must be constructed in accordance with comprehensive written specifications or standards that are consistent with the requirements of this part.**

#### § 195.234 Welds: Nondestructive testing.

(a) . . .

(b) **Any nondestructive testing of welds must be performed -**

(1) **In accordance with a written set of procedures for nondestructive testing[.]**

PEP failed to follow its nondestructive testing (NDT) procedures during construction of the PEX II pipeline as required by §§ 195.202 and 195.234(b)(1). PEP built the PEX II pipeline in 2014 and 2015 utilizing the real time radiography (RTR) process for NDT of the pipeline girth welds. PEP's procedures, *Digital Radiography Procedure Number DR-1: Sections 8.5.1 and 12.3.1*, required the use of duplex image quality indicators (IQIs) and specified the essential element that must be visible to verify that the total image unsharpness is acceptable.

PEP's procedures, *Digital Radiography Procedure Number DR-1: Section 12.2.4*, required the use of the duplex IQI on the first radiograph of the day and that the required essential element be visible on the scan. If the first radiograph of the day did not meet the procedure, every radiograph produced that day would not be acceptable under PEP's procedures. Acceptable industry practice would be to adjust the RTR procedure to achieve the required sensitivity and then utilize the new parameters for that day's production of radiographs.

PHMSA reviewed RTR files created by the PHMSA accepted third-party from December 2021 to March 2022 and discovered that 3,432 radiographs did not meet the duplex IQI requirement of the procedure. PHMSA identified issues with the sharpness of the radiographs and proposed, and PEP accepted, the use of the compensation principle as detailed in ISO 17636-2. After applying the compensation principle, PHMSA identified 194 unacceptable radiographs.

Therefore, PEP failed to follow its NDT procedures during construction of the PEX II pipeline as required by §§ 195.202 and 195.234(b)(1).

### 2. § 195.230 Welds: Repair or removal of defects.

(a) **Each weld that is unacceptable under § 195.228 must be removed or repaired. Except for welds on an offshore pipeline being installed from a pipelay vessel, a weld must be removed if it has a crack that is more than 8 percent of the weld length.**

#### § 195.228 Welds and welding inspection: Standards of acceptability.

(a) . . .

**(b) The acceptability of a weld is determined according to the standards in section 9 or Appendix A of API Std 1104 (incorporated by reference, *see* § 195.3). Appendix A of API Std 1104 may not be used to accept cracks.**

PEP failed to remove or repair all unacceptable welds as required by § 195.230(a). Specifically, PEP's review of the RTR files from December 2021 to March 2022 discovered 429 welds that did not meet the acceptability criteria of Section 9 or Appendix A of API 1104, as required by § 195.228(b). PEP did not remove or repair the 429 unacceptable welds.

Therefore, PEP failed to remove or repair the unacceptable welds as required by § 195.230(a).

### **PEP Response to NOPV**

Although PEP neither admits nor denies the allegations above and is not contesting either finding of Probable Violation, it is proposing modifications to the PCO detailed below for PHMSA consideration.

### **PHMSA Proposed Compliance Order**

- A. With regard to Item 1 of the Notice pertaining to PEP's failure to follow its nondestructive testing procedures, PEP must prepare a work plan for the Director's approval containing a prioritized schedule for addressing the 194 unacceptable radiographs that did not meet the compensation principle of ISO 17636-2 within **45** days of the issuance of the Final Order.
- B. With regard to Item 1, PEP must complete the proposed plan to address the 194 unacceptable radiographs that did not meet the compensation principle within one year of the issuance of the Final Order.
- C. With regard to Item 2 of the Notice pertaining to PEP's failure to remove or repair the 429 unacceptable welds, PEP must prepare a work plan for the Director's approval containing a prioritized schedule for removing or repairing the 429 unacceptable welds within **45** days of the issuance of the Final Order.
- D. With regard to Item 2, PEP must complete the proposed plan to address the 429 unacceptable welds that did not conform with Section 9 or Appendix A of API Standard 1104 within one year for welds located in HCAs or could affect areas, and up to 4 years for the remaining welds.
- E. PEP must report to the Director throughout the implementation of both work plans, on a quarterly basis, regarding the weld removal/repair program status, including reportable incidents or safety-related condition reports, pursuant to 49 C.F.R. Part 195 and PEP's procedures, that are associated with applicable girth welds.

### **PEP Requested Modifications to the PHMSA Proposed Compliance Order**

- A. With regard to Items 1 and 2 of the NOPV pertaining to PEP's failure to follow its nondestructive testing procedures for the 194 unacceptable radiographs that did not meet the compensation principle of ISO 17636-2 and failure to remove or repair the 429 unacceptable welds, PEP must prepare a work plan for the Director's approval containing a prioritized schedule for removing or repairing those welds within **45** days of issuance of the Final Order.
- B. With regard to Items 1 and 2 of the NOPV, PEP must complete the work plan proposed to address the 194 and 429 welds described in Item A of the PCO within one year of issuance of the Final Order for welds located in HCAs or "could affect" areas, and up to 4 years for the remaining welds.
- C. PEP must report to the Director throughout the implementation of the work plan, on a quarterly basis, regarding the weld removal/repair program status, including reportable incidents or safety-related condition reports, pursuant to 49 C.F.R. Part 195 and PEP's procedures, that are associated with applicable girth welds.
- D. Extensions of time may be approved by the Director on a case-by-case basis should the need arise. The ability to request an extension of time applies to the repairs to be conducted in year one to welds located in HCAs or "could affect" areas and to the remaining welds to be repaired over the final three (3) years of the plan.

As initially proposed by PHMSA, Item A of the PCO allows the opportunity for PEP to address by non-destructive examination (NDE) the acceptability of any and all of the 194 welds that did not meet the compensation principle of ISO 17636-2. However, PEP will repair or replace these welds in lieu of performing additional NDE. PEP believes that since it will be repairing or replacing these welds it is prudent with respect to pipeline safety to repair or replace within one (1) year of issuance of the Final Order the subset of these 194 and 429 welds which are situated in HCAs or "could affect" areas. The remaining subset of both groups of welds will then be repaired over the course of the remaining three (3) years allowed by the plan specified in Item D above.

Further, the execution of the plans required by the PCO will require PEP to perform a combined total of up to thirty-five (35) horizontal directional drill (HDD) or road bore (RB) installations. Installation of HDDs and RBs can potentially require extended engineering and permitting processes in addition to potential right-of-way easement negotiations with landowners. Modifying the initially proposed PHMSA PCO as PEP requests here will provide PEP additional flexibility to navigate these processes while ensuring all work is completed within the specified timeframes of one year from issuance of the Final Order for HCAs and "could affect" areas and the three (3) years thereafter of the plan for areas outside of HCAs or "could affect" areas.

PEP began to repair welds in 2022 based on the third-party review findings and in advance of issuance of the NOPV. This work was discussed with PHMSA during the meetings held on August 25 and September 16, 2022.

Below PEP has included a table which details the repairs completed/planned to be completed in 2022 and the subsequent yearly plans to fully complete the balance of weld repairs during the four years thereafter as proposed by PEP's modifications to the PCO.

<b>Calendar Year</b>	<b>NOPV Year</b>	<b>Description</b>	<b>GW Qty</b>	<b>HDD/RB Sites in GW Qty</b>
2022	Pre-Work	HCA GW Overturns	93	
2022	Pre-Work	HCA IQI Overturns	25	
2022	Pre-Work	Non-HCA IQI Overturns	40	
		<b>Pre-Work Subtotal</b>	<b>158</b>	
2023	1	HCA GW -HDD or Road Bore Locations (9 Sites)	15	9
2023	1	HCA IQI - HDD or Road Bore Locations (8 Sites)	17	8
2023	1	Non-HCA IQI Overturns	75	
		<b>Year 1 Subtotal</b>	<b>107</b>	<b>17</b>
2024	2	Non-HCA IQI Overturns - HDD / RB (8 Sites)	37	8
2024	2	Non-HCA GW Overturns	90	
		<b>Year 2 Subtotal</b>	<b>127</b>	<b>8</b>
2025	3	Non-HCA GW Overturns - HDD / RB (5 Sites)	8	5
2025	3	Non-HCA GW Overturns	110	
		<b>Year 3 Subtotal</b>	<b>118</b>	<b>5</b>
2026	4	Non-HCA GW Overturns - HDD / RB (5 Sites)	7	5
2026	4	Non-HCA GW Overturns	106	
		<b>Year 4 Subtotal</b>	<b>113</b>	<b>5</b>
		<b>TOTALS</b>	<b>623</b>	<b>35</b>

Bryan Lethcoe, Director  
October 4, 2022  
Page 6

PEP reiterates its shared commitment to pipeline safety, public safety, and pipeline integrity. PEP will continue to cooperate fully with PHMSA and operate the PEX II pipeline in compliance with all applicable sections of the federal pipeline safety regulations. The Company appreciates PHMSA's consideration of this request to modify the PCO.

Should there be a need for additional discussion to clarify any part of this request please contact me at (713) 989-7126 or via email at [todd.nardozzi@energytransfer.com](mailto:todd.nardozzi@energytransfer.com).

Sincerely,

Todd Nardozzi  
Director – Regulatory Compliance

cc: Mary McDaniel, PHMSA  
Gerhardt Bauman, PHMSA  
Todd Stamm, SVP of Operations  
Leif Jensen, VP – Technical Services  
Chris Lason, VP – Asset Integrity  
Heidi Slinkard, Chief Counsel