

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 5, 2022

Todd Stamm
Senior Vice President of Operations
Permian Express Partners LLC
1300 Main Street
Houston, Texas 77002

CPF 4-2022-046-NOPV

Dear Mr. Stamm:

From December 2021 through May 2022, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Permian Express Partners LLC's (PEP) performance of destructive testing on its 24-inch crude oil Permian Express 2 Pipeline (PEX II) in Houston, Texas. On November 15, 2019, a Final Order was issued to PEP, which contained a Compliance Order requiring the performance of destructive tests on "a statistically significant number of girth welds on Spread 24-3 to show that the welds have the required strength and mechanical properties for the application" for the PEX II construction project.¹ Beginning March 20, 2020, PEP developed and implemented an incremental weld assessment plan, which PHMSA accepted as a Phase I approach. On June 9, 2021, PEP submitted reports from RSI Pipeline Solutions and DNV-GL documenting the results to demonstrate the strength and mechanical properties of the Phase I samples selected for testing. As a result of the testing, PHMSA discovered issues regarding the quality of the welds. PHMSA initiated an investigation and inspection to further review the welding real time radiography (RTR).

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.). The items inspected and the probable violations are:

¹ Sunoco Pipeline, LP, Final Order, CPF No. 4-2016-5011, 2019 WL 8062705, at 14 (Nov. 15, 2019) (available at https://primis.phmsa.dot.gov/comm/reports/enforce/documents/420165011/420165011_Final%20Order_11152019_t ext.pdf). PEP acquired the relevant assets referenced in this Final Order from Sunoco Pipeline, LP after the order was issued.

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 utilized 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).

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, you are subject to a civil penalty not to exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021, and before March 21, 2022, the maximum penalty may not exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021, and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019, and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018, and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015, and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to Items 1 and 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Permian Express Partners LLC. 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 Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 C.F.R. § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2022-046-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Permian Express Partners LLC (PEP) a Compliance Order incorporating the following remedial requirements to ensure the compliance of PEP with the pipeline safety regulations:

- 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.

It is requested (not mandated) that PEP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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.