

December 14, 2022

**VIA ELECTRONIC MAIL: todd.stamm@energytransfer.com**

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

**Re: CPF No. 4-2022-046-NOPV**

Dear Mr. Stamm:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Permian Express Partners LLC 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 e-mail is effective upon the date of transmission and acknowledgement of receipt 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: Mr. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Todd Nardoizzi, Director, Regulatory Compliance, Permian Express Partners LLC,  
todd.nardoizzi@energytransfer.com

**CONFIRMATION OF RECEIPT REQUESTED**

## FINDINGS OF VIOLATION

In its Response, PEP did not contest the allegations in the Notice that it violated 49 C.F.R. part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated §§ 195.202 which states:

**§ 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.

The Notice alleged that Respondent violated § 195.202 by failing to follow its nondestructive testing (NDT) procedures during construction of the PEX II pipeline.<sup>1</sup> Specifically, the Notice alleged that 3,432 radiographs of the PEX II pipeline did not meet Respondent's duplex image quality indicator requirements and that after applying the compensation principle as detailed in ISO 17636-2, 194 radiographs were unacceptable.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated § 195.202 by failing to follow its NDT procedures.

**Item 2:** The Notice alleged that Respondent violated § 195.230(a) which states:

**§ 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.

The Notice alleged that Respondent violated § 195.230(a) by failing to remove or repair all unacceptable welds.<sup>2</sup> Specifically, the Notice alleged that PEP did not remove or repair 429 unacceptable welds.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated § 195.230(a) by failing to remove or repair all unacceptable welds.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

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<sup>1</sup> The Notice included reference to an additional regulatory requirement that governs the nondestructive testing of welds. 49 C.F.R. § 195.234(b)(1) mandates that "any nondestructive testing of welds must be performed in accordance with a written set of procedures for nondestructive testing." These procedures are also subject to the general regulatory requirement of § 195.202.

<sup>2</sup> The Notice also referenced the regulatory requirement, § 195.228(b), which governs the standards for determining the acceptability of welds, which is specifically referenced in § 195.230(a).

## **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1 and 2 for violations of 49 C.F.R. §§ 195.202 and 195.230(a), respectively. 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.

With regard to the violation of § 195.202 (Item 1), Respondent requested the compliance terms should be modified to allow for completion of the work plan proposed to address the 194 unacceptable radiographs within one year of issuance of the Final Order for welds located in high consequence areas (HCAs) or “could affect” areas, and up to four years for the remaining welds.

With regard to the violation of § 195.230(a) (Item 2), Respondent requested the compliance terms should be modified to allow for completion of the work plan proposed to address the 429 unacceptable welds within one year of issuance of the Final Order for welds located in HCAs or “could affect” areas, and up to four years for the remaining welds.

PEP also asked for the ability to request an extension of time from the Director on a case-by-case basis should the need arise.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended the compliance order be amended as requested by PEP. I agree with this recommendation.

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

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 § 195.202 (**Item 1**), Respondent 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.
2. 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 issuance of the Final Order for welds located in HCAs or “could affect” areas, and up to four years for the remaining welds.
3. With respect to the violation of § 195.230(a) (**Item 2**), Respondent must prepare a work plan for the Director’s approval containing a prioritized schedule for removing or repairing the 429 unacceptable welds that did not conform with Section 9 or Appendix A of API Standard 1104 within **45** days of the issuance of the Final Order.

4. With regard to Item 2, PEP must complete the work plan proposed to remove or repair the 429 unacceptable welds that did not confirm with Section 9 or Appendix A of API Standard 1104 within one year of issuance of the Final Order for welds located in HCAs or “could affect areas, and up to four years for remaining welds.

5. Respondent must report to the Director through 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.

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.

PHMSA requests 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 (*see* 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.

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, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the 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.

December 14, 2022

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued