



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL TO: tom.long@energytransfer.com

October 16, 2023

Thomas Long
Chief Executive Officer
Energy Transfer Company
8111 Westchester Drive
Dallas, Texas 75225

CPF 4-2023-052-NOPV

Dear Mr. Long:

From February 28 to June 24, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected Panhandle Eastern Pipeline Company's (PEPL) natural gas pipeline facilities in Missouri, Kansas, Oklahoma, and Texas.

As a result of the inspection, it is alleged that PEPL has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

§ 192.731 Compressor stations: Inspection and testing of relief devices.

(a)

(b) Any defective or inadequate equipment found must be promptly repaired or replaced.

PEPL failed to promptly repair or replace defective or inadequate equipment in accordance with § 192.731(b) and section of 4.0 of its *Standard Operating Procedure, Relief Valves Testing Inspection and Maintenance: M.05* (June 28, 2022). Specifically, a relief valve 5RV-3S, used for secondary overpressure protection (OPP) at the Olpe Compressor, drifted above the set point four times since 2017, and PEPL failed to promptly repair or replace this defective and inadequate valve.

Valve 5RV-3S is a secondary OPP at Olpe Compressor Station on the 300/400 line, and the set point is 810 psig or 104% of the Maximum Allowable Operating Pressure (MAOP). During the inspection, PHMSA requested records for relief valve testing inspection and maintenance. The records indicated that the relief valve (5RV-3S) drifted above the overpressure protection pressure (OPP) settings three times. Additionally, the valve was tested on May 5, 2022, during the inspection and it drifted to 813 psig and was adjusted to 809 psig.

The May 5, 2022 valve test during the inspection and work orders from 2018, 2020, and 2021 indicate that this valve drifted above the set point four times.

Therefore, PEPL failed to promptly repair or replace defective or inadequate equipment in accordance with § 192.731(b) and section of 4.0 of its *Standard Operating Procedure, Relief Valves Testing Inspection and Maintenance: M.05* (June 28, 2022).

2. **§ 192.905 How does an operator identify a high consequence area?**

(a) **General.** To determine which segments of an operator's transmission pipeline system are covered by this subpart, an operator must identify the high consequence areas. An operator must use method (1) or (2) from the definition in § 192.903 to identify a high consequence area. An operator may apply one method to its entire pipeline system, or an operator may apply one method to individual portions of the pipeline system. An operator must describe in its integrity management program which method it is applying to each portion of the operator's pipeline system. The description must include the potential impact radius when utilized to establish a high consequence area. (See appendix E.I. for guidance on identifying high consequence areas.)

(b)

(1) **Identified sites.** An operator must identify an identified site, for purposes of this subpart, from information the operator has obtained from routine operation and maintenance activities and from public officials with safety or emergency response or planning responsibilities who indicate to the operator that they know of locations that meet the identified site criteria. These public officials could include officials on a local emergency planning commission or relevant Native American tribal officials.

PEPL failed to identify a high consequence area in accordance with § 192.905(a). Specifically, PEPL failed to identify the Learning Connection Child Development Center (136 Scott Station Rd, Jefferson City, MO 65109) adjacent to the Jefferson City pipeline (45-04-001-04) right-of-way and within its potential impact radius (PIR) as an "identified site" in accordance with § 192.905(b)(1).

PEPL provided a map that indicated the Learning Connection Child Development Center was within the PIR of the Jefferson City pipeline. PHMSA also interviewed the owner of the Development Center and received an email with the following information:

- The Development Center building is occupied by 18 employees a day and 65 children every working day
- The Development Center's working days every week is Monday to Friday
- The Development Center is open 52 weeks through the entire year

Based on information provided by PEPL on the PIR, and owner of the Development Center, it was determined that the Development Center could be occupied by more than twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12)-month period requiring designation as an identified site.

Therefore, PEPL failed to identify a high consequence area in accordance with § 192.905(a).

3. § 192.907 What must an operator do to implement this subpart?

(a) **General.** No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

PEPL failed to follow its written integrity management program in accordance with § 192.907(a). Specifically, PEPL failed to adequately conduct a preventive and mitigative (P&M) measure study for three pipeline segments in accordance with section 9 of its *Pipeline Integrity Management Plan* (Rev. 12; Apr. 1, 2021).

Section 9 of PEPL's integrity management program states that, within three years of receipt of assessment data on a pipeline segment, the operator will conduct a preventive and mitigative measures study of the assessed pipeline segment. Section 9.3 requires PEPL to develop recommended P&M measures and rank each approved P&M measure.

PHMSA reviewed Integrity Segment Summary Reports for the following stations and found that the undated reports did not clearly identify, develop, and rank P&M measures in accordance with section 9.3.

1. Centralia 400 Line Station to Pleasant Hill Station (data acceptance date: 10/8/2015)
2. Colt Meter (7 Gate) to Louisburg 400 Line (data acceptance date: unknown; ILI run performed on 3/23/2017)
3. Louisburg 400 Line Station – Houstonia Station (data acceptance date: 12/29/2020)

Therefore, PEPL failed to follow its written integrity management program in accordance with § 192.907(a).

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 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, 2, and 3 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Panhandle Eastern Pipeline Co (PEPL). 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 respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2023-052-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
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

cc: Mr. Greg McIlwain, Executive Vice President of Operations, Energy Transfer, LP,
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PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Panhandle Eastern Pipeline Co. a Compliance Order incorporating the following remedial requirements to ensure the compliance with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to PEPL's failure to promptly repair or replace defective or inadequate equipment in accordance with § 192.731(b) and its procedures, PEPL must repair or replace all defective or inadequate equipment, including valve 5RV-3S, and provide associated records within **90** days of issuance of the Final Order. PEPL must determine the cause of the drift for valve 5RV-3S and inform the Director in writing of the determined cause within **90** days of issuance of the Final Order.
- B. In regard to Item 2 of the Notice pertaining to PEPL's failure to identify a high consequence area in accordance with § 192.905(a), PEPL must categorize the Learning Connection Child Development Center as an identified site and add this HCA to all elements of its integrity management program in accordance with Subpart O within **90** days of issuance of the Final Order.
- C. In regard to Item 3 of the Notice pertaining to PEPL's failure to follow its written integrity management program in accordance with § 192.907(a), PEPL must revise the Integrity Segment Summary Reports for the listed segments to clearly identify preventative and mitigative actions to implement the process in section 9 of its Pipeline Integrity Management Plan within **90** days of issuance of the Final Order.
- D. It is requested (not mandated) that Panhandle Eastern Pipeline Co. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, 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.