



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

901 Locust Street, Suite 462  
Kansas City, MO 64106-2641

**NOTICE OF PROBABLE VIOLATION  
and  
PROPOSED CIVIL PENALTY**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

October 18, 2012

Mr. Terry Hurlbert  
Group Senior Vice President, Operations and EHS&T  
Enterprise Products Operating LLC  
1100 Louisiana Street  
Houston, Texas 77210

**CPF 3-2012-5023**

Dear Mr. Hurlbert:

On April 14, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, began an investigation into an accident that occurred on April 13, 2010 at the Enterprise Products Operating, LLC (EPCO) Seymour Pump Station located in Seymour, IN (Seymour Station Accident).

The accident involved a release of refined products which resulted in a flash fire during a maintenance project involving the removal of valves from the 14" diameter P35 pipeline sump system. Products were ignited by an employee utilizing an electric impact wrench. The accident resulted in two EPCO employees receiving burns requiring hospitalization. At the time of the accident, the work was performed under the direction of EPCO employees utilizing EPCO standards and procedures but TE Products Pipeline Company, LLC (TEPPCO) identified itself in the accident reports as the Seymour Pump Station operator.

Effective August 17, 2010, TEPPCO merged with EPCO, and EPCO succeeded TEPPCO as the responsible operator.

As a result of the investigation, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

**1. §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:

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

EPCO failed to follow its written procedures for lockout/tagout isolation during the pipeline maintenance project at the Seymour Pump Station. In pertinent part, EPCO procedures require lock out/tag out to be conducted as follows:

**3.3.5 General Procedures and Requirements**

*2. The Operations Supervisor or Designee shall prepare an EPCO Isolation/Blind List identifying all electrical and/or mechanical isolation points associated with the equipment/system to be taken out of service as follows:*

*b. Description of all mechanical isolating device(s) that must be closed, blinded or disconnected prior to work commencing.*

The Isolation/Blind List (Form EPCO-SF20) developed by EPCO failed to identify all valves to be closed and taken out of service prior to the maintenance work commencing.

**3.3.1 Acceptable Energy Isolation Devices**

*3. However, under this Energy Isolation Standards section these devices shall be locked out and tagged prior to any work being performed on the upstream/downstream deenergized side of these devices.*

The post-accident investigation revealed that the valves associated with the HVL skid to the sump system were not locked out and tagged out.

**2. §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:

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

EPCO failed to follow its procedures for providing continuous Lower Explosive Limit (LEL) monitoring for hazardous vapors during the sump system maintenance which involved the use of non-intrinsically safe equipment. In pertinent part, EPCO's procedures required LEL monitoring as follows:

**3.10.2 Safe Work Practices:**

*3. All Company field locations shall utilize one or a combination of the following processes to ensure compliance with this procedure:*

*c. A Work Permit with continuous LEL monitoring will be required and issued for electrical testing equipment or electrical devices that are not certified as explosion-proof or intrinsically safe and are used in a classified area.*

The April 13, 2010 accident involved the accumulation of flammable vapors in the trench which were ignited by the use of a non-intrinsically safe electric impact wrench. An LEL monitor was located on the ditch bank at the time of the fire; it was not actually monitoring LEL in the trench where the work was performed due to the absence of a tube running from the monitor down into the trench. Effective monitoring can only be performed when a LEL monitor is sampling the environment near or adjacent to the potential source of ignition (in this case the electric impact wrench).

**3. §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:

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

EPCO failed to follow its procedures to develop or rewrite a new Hot Work Permit after circumstances changed as the result of the introduction of an electric impact wrench.

### **3.11.3 Limitations of Permit**

1. *After issuing any permit, it shall be the responsibility of the Operations Supervision or Operations Designee signing the Permit to remain aware of any changes in the operating area that may affect the validity of the permit as originally issued.*
2. *If circumstances change, the Operations Supervisor or Designee should rewrite the permit and inform/instruct all involved personnel of these changes.*

Prior to the start of the day's work, a Hot Work Permit was completed; the completed permit only covered gasoline/diesel powered equipment and pickup/tractor. During the course of events, the use of an electric impact was introduced into the project. The use of an electric impact wrench was not covered by the Hot Work Permit. The use of an electrically powered device changed the circumstances of the Hot Work Permit and the hazard identifications associated with the work permit. Therefore, according to EPCO procedures the Hot Work Permit was required to be rewritten and reissued to involved personnel.

## **4. §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:

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

EPCO failed to follow its Hot Work Permit procedures for posting a fire watch on April 13, 2010 during the sump system maintenance.

### **3.11.8 Hot Work Permit Requirements**

6. *A "stand-by" or fire watch will be informed of any potential fire hazard and assigned to "watch" for and/or eliminate any potential ignition source exposure.*

- a. *This person must be familiar with the proper use and application of fire extinguishers.*
- b. *A stand-by or fire watch will be maintained for at least a half hour after completion of welding or cutting operation to detect and extinguish possible smoldering fires.*

EPCO failed to post a fire watch on April 13, 2010 during the sump system maintenance. During the post-accident investigation, EPCO personnel acknowledged that no one was assigned or present as fire watch.

**5. §195.422 Pipeline repairs.**

**(a) Each operator shall, in repairing its pipeline systems, insure that the repairs are made in a safe manner and are made so as to prevent damage to persons or property.**

EPCO failed to insure that repairs at the Seymour Pump Station were made in a safe manner so as to prevent damage to persons or property. On the date of the accident, numerous safety deficiencies were involved including a failure to complete Lockout/Tagout, recognition of a change to a hot work permit condition did not occur, workers were not made aware of a revision to the hot work permit area conditions that impacted their safety, training did not prevent employees from using non-explosion proof equipment in the trench, LEL monitoring equipment was not properly used, and a fire watch was not implemented. The flammable products escaped and ignited in a fire burning several employees. The manner in which EPCO conducted the repair project failed to insure that those repairs were made in a safe manner.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$437,500 as follows:

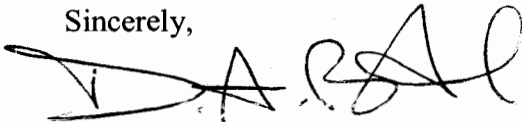
<u>Item number</u>	<u>PENALTY</u>
1	\$ 37,500
2	100,000
3	100,000
4	100,000
5	100,000

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance 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). 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.

In your correspondence on this matter, please refer to **CPF 3-2012-5023** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Barrett', written over a horizontal line.

David Barrett  
Director, Central Region  
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*

## **-Response Options for Pipeline Operators in Compliance Proceedings**

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Be advised that all material submitted by a respondent in response to an 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).

### **I. Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:**

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

#### **a. When the Notice contains a proposed CIVIL PENALTY\* --**

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;
2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Refer to 49 C.F.R. § 190.225 for assessment considerations, which include the respondent's ability to pay and the effect on the respondent's ability to stay in business, upon which civil penalties are based;
3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or
4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a proposed COMPLIANCE ORDER\* --

1. If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order;
2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;
3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or
4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a WARNING ITEM --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. Procedures for Responding to a NOTICE OF AMENDMENT\*--

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

- a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice;
- b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the



Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;

- c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or
- d. Request a hearing as described below to contest the allegations in the Notice.

\* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

### **III. Procedure for Requesting a Hearing**

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than \$10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

### **IV. Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

### **V. Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption

provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to [http://www.sba.gov/ombudsman/dsp\\_faq.html](http://www.sba.gov/ombudsman/dsp_faq.html).

VII. **Payment Instructions**

***Civil Penalty Payments of Less Than \$10,000***

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration  
Mike Monroney Aeronautical Center  
Financial Operations Division (AMZ-341) P.O. Box 269039  
Oklahoma City, OK 73125-4915

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

***Civil Penalty Payments of \$10,000 or more***

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

## INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #1** - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5** - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

**Block #7** - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

**Block #9** - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #10** - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

**NOTE:** A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8893 at the time you send the wire transfer.

February 2009