

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

**VIA ELECTRONIC MAIL to: [tom.long@energytransfer.com](mailto:tom.long@energytransfer.com)**

June 15, 2023

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

**CPF 4-2023-011-NOPV**

Dear Mr. Long:

On March 27, 2020, representatives 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.) conducted an investigation following an incident that occurred at Panhandle Eastern Pipeline Company's (PEPL) Borchers Station near Meade, Kansas.

On March 26, 2020, at approximately 2:00 p.m. Central Daylight Time, a PEPL technician was attempting to retrieve a T.D. Williamson 10-inch PitBoss™ Cleaning Pig that was stuck due to ice accumulation in the receiving barrel which was partially pressurized within the Borchers Station piping. The technician was attempting to break the ice using a stainless-steel rod causing the pig to become dislodged and travel out of the receiving end of the pig trap striking the technician in the abdomen. The technician later died at the hospital due to their injuries. PHMSA's Accident Investigation Division and the Central Region traveled onsite to investigate the incident.

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

PEPL failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in four areas in accordance with § 192.605(a).<sup>1</sup> Specifically, PEPL 1) failed to ensure the pipe was de-energized prior to conducting maintenance in accordance with its written procedure, S-230; 2) failed to create a work permit and communicate the potential hazards to relevant personnel in accordance with its written procedure, S-370; 3) failed to follow two provisions of its pigging operations procedures and; 4) failed to follow its procedure for clearing freezes.

First, PEPL failed to follow its *Safety Procedure S-230, Hazardous Energy Control (Lockout Tagout) (Effective 08/01/2017)*, which requires the operator to de-energize the pipe prior to performance of scheduled activities. On the day of the incident, PEPL failed to ensure that the piping at the pig receiver was clear of any hazardous energy and de-energized.

Second, PEPL failed to follow its *Safety Procedure S-370 Work Permits (Effective 8/1/2017)*, which requires that a “General Work Permit” be obtained for potentially hazardous work. Prior to the incident, PEPL failed to obtain a “General Work Permit” that requires identification of all potential hazards and communication of those hazardous to relevant personnel.

Third, PEPL failed to follow two provisions in its *Standard Operating Procedures, Pigging and Pig Trap Operation, Procedure: I.13 (Effective 5/1/2015)*. Section 7.2 of the pigging procedures states that personnel cannot “stand in front of the launcher or receiver door in the project path of the line-cleaning tool while opening.” On the day of the incident a PEPL technician was standing in front of the receiver while trying to dislodge ice.

In addition, section 7.5 states that PEPL must “[v]erify the trap is depressured and that SOP B.06 Hazardous Energy Control and Safety Procedure S-230 Lockout Tag out are followed before opening the closure.” The valves to this receiver were leaking which created pressure in the barrel behind the cleaner pig. The maintenance personnel stated that it was common for the valves to leak. The pressure upstream of the 10-inch main valve was over 700 psi. On the day of the incident a PEPL technician opened the closure without verifying that the trap was depressured.

Fourth, PEPL failed to follow its *Best Practice Clearing Freezes BP I.17 (Effective 6/1/2013)*, which requires, in section 7.2, that personnel “[n]otify the operations manager of the freeze and

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<sup>1</sup> PEPL uses the procedures of Energy Transfer Company, its parent organization.

discuss the procedures to handling freezes.” PEPL personnel failed to make the requisite notification. Section 7.3 of this same procedure states that personnel must “[b]lowdown slowly in either side of the freeze using the smallest valve available [ and m]aintain a differential of 50 psi or less across the freeze.” PEPL failed to maintain a differential of 50 psi or less.

PEPL’s failure to follow its written procedures was a causal factor in the incident that occurred on March 26, 2020.

Therefore, PEPL failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in four areas in accordance with § 192.605(a).

**2. § 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.

**(b) Maintenance and normal operations.** The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

**(1) . . . .**

**(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.**

PEPL failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in accordance with § 192.605(a). Specifically, PEPL failed to periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modify the procedures when deficiencies are found in accordance with § 192.605(b)(8) and *Standard Operating Procedures, Management of Change: A.03 (Effective 8/1/2017)* section 4.0 *Frequency* and *Standard Operating Procedures, Guiding Principles: A.02 (Effective 5/1/2015)* sections 4.0 *Frequency*, 7.1 *Rules* and 7.2 *Developing an SOP*. PEPL failed to review the work performed under its *Standard Operating Procedures, Pigging and Pig Trap Operation, Procedure: I.13, I.0 Procedure Description (Effective 5/1/2015)*. As a result, PEPL failed to determine the procedures were deficient and failed to modify the procedures to provide guidance to employees for safely addressing ice accumulation during pigging and pig trap operation.

PEPL’s written procedures failed to include instructions for employees encountering ice build-up when launching and receiving pigs. PEPL failed to conduct effectiveness reviews pursuant to

§ 192.605(b)(8). Supervisors at the Borchers' Storage Facility did not have knowledge of any effectiveness reviews or documentation for clearing freezes. Employees interviewed as part of PHMSA's investigation noted that the line would "freeze up often" and that "ice is a problem." Despite employees' awareness of the ongoing ice accumulation issue in the line, PEPL failed to review the work done by operator personnel, failed to determine that its pigging and pig trap operation procedures were ineffective, and failed to remediate the deficiency by modifying the procedures to include instructions to address an accumulation of ice inside launchers and receivers.

PEPL's failure to follow its written procedures increased the severity of the incident that occurred on March 26, 2020.

Therefore, PEPL failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in accordance with § 192.605(a).

**3. § 192.805 Qualification program.**

**Each operator shall have and follow a written qualification program. The program shall include provisions to:**

**(a) Identify covered tasks;**

PEPL failed to have and follow a written Operator Qualification (OQ) Program that identified all covered tasks in accordance with § 192.805(a). Specifically, PEPL's written *Standard Operating Procedures, Operator Qualification Plan (Effective 5/1/2018)* failed to include the operation and maintenance task of launching and receiving pigs as a covered task in its plan.

Therefore, PEPL failed to comply with § 192.805(a).

Proposed Civil Penalty

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 documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$2,473,912 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$218,647
2	\$2,186,465
3	\$68,800

#### Proposed Compliance Order

With respect to Items 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 Company. 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. All material you submit in response to this enforcement action may be 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 your 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 4-2023-011-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*

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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 Company (PEPL) a Compliance Order incorporating the following remedial requirements to ensure the compliance of pipeline safety regulations:

- A. In regard to Item 2 of the Notice pertaining to PEPL's failure to perform an effectiveness review of its procedures and to have procedures and guidelines for ice accumulation when launching and receiving pigs, PEPL must:
  - 1. Conduct an effectiveness review of its procedures for Pigging and Pig Trap Operations and Clearing Freezes Best Practice by reviewing employees' experiences at each of the PEPL facilities and identifying the facilities where employees may encounter ice in the PEPL system within **60** days of issuance of the Final Order;
  - 2. Identify specific locations on the pipeline at each facility where icing may occur;
  - 3. Create and implement new procedures for each specific location and detailed guidelines for employees encountering ice build-up when launching and receiving pigs and submit the new procedures to the Director, Southwest Region, PHMSA within **240** days of issuance of the Final Order; and
  - 4. Train all PEPL employees responsible for following the site-specific procedures within **365** days of issuance of the Final Order.
  
- B. In regard to Item 3 of the Notice pertaining to PEPL's failure to include the launching and receiving of pigs in its written Operator Qualification (OQ) Program, PEPL must:
  - 1. Amend its written operator qualification program to include launching and receiving pigs as a covered task;
  - 2. Identify and qualify all PEPL employees responsible for performing the new covered task; and
  - 3. Submit the amended Operation Qualification Plan and qualification records to the Director, Southwest Region, PHMSA within **210** days of issuance of the Final Order.
  
- C. It is requested (not mandated) that Panhandle Eastern Pipeline Company 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.