

MAR 17 2010

Mr. Mike Poirier
HSE Director
Shore Terminals, LLC
9420 NW St. Helens Road
Portland, OR 97231

Re: CPF No. 5-2007-5037

Dear Mr. Poirier:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and finds that Shore Terminals, LLC, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2472 5231]

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)

Shore Terminals, LLC,)
a subsidiary of NuStar Energy, L.P.,)

Respondent.)

CPF No. 5-2007-5037

FINAL ORDER

On March 26, 2007, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Shore Terminals, LLC (Shore or Respondent) in Portland, Oregon. The inspection covered several tank farms and breakout tanks, located along the Columbia River, which store and transport hazardous liquids from the Olympic Pipeline prior to reinjection into the Kinder Morgan pipeline for transportation to Eugene, Oregon. Shore Terminals, LLC, is a subsidiary of NuStar Energy, L.P., which owns 8,417 miles of pipeline, 82 terminal facilities, four crude oil storage tank facilities and two asphalt refineries with a combined throughput capacity of 104,000 barrels per day.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated October 19, 2007, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 195.432, 195.565, 195.573, and 195.581.

Shore responded to the Notice by letters dated November 16, 2007, December 14, 2007, and June 18, 2008 (collectively, Response). Shore did not contest the allegations of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

¹ <http://www.nustarenergy.com/> (last accessed March 8, 2010).

FINDINGS OF VIOLATION

In its Response, Shore 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 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a)

(b) Each operator shall inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks according to section 4 of API Standard 653. However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3).

The Notice alleged that Shore violated § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel aboveground breakout tanks. In particular, the OPS inspection revealed that there was no evidence of any prior inspections taking place, or plans to conduct any future inspections, to detect and remedy the tanks' growing atmospheric corrosion problems. Although Shore stated in its Response that the API 653 inspections were performed on a periodic basis and that the records were readily available to substantiate compliance, Respondent did not supply any further evidence regarding these inspections and instead agreed to meet the terms of the proposed compliance order for this item. Accordingly, based upon a review of all of the evidence, I find that Shore violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of its in-service atmospheric and low-pressure steel aboveground breakout tanks.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.565, which states:

§ 195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under § 195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels (79.5m³) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), you must install the system in accordance with API Recommended Practice 651. However, installation of the system need not comply with API Recommended Practice 651 on any tank for which you note in the corrosion control procedures established under §195.402(c)(3) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of the tank.

The Notice alleged that Shore violated § 195.565 by failing to install cathodic protection systems on any of its in-service breakout tanks having more than 500 barrels of capacity or to provide reasons as to why a corrosion control system was not necessary under API Recommended Practice (RP) 651. The OPS inspection report also indicated that a Shore official admitted that no cathodic protection systems were installed on any of the breakout tanks. Respondent did not contest this violation. Accordingly, based upon a review of all of the evidence, I find that Shore violated 49 C.F.R. §195.565 by failing to install cathodic protection systems in aboveground breakout tanks of more than 500 barrels capacity.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(d), which states:

§ 195.573 What must I do to monitor external corrosion control?

(a)

(d) *Breakout tanks.* You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651. However, this inspection is not required if you note in the corrosion control procedures established under §195.402(c)(3) why compliance with all or certain operation and maintenance provisions of API Recommended Practice 651 is not necessary for the safety of the tank.

The Notice alleged that Shore violated § 195.573(d) by failing to include any provisions about inspection of the cathodic protection systems on aboveground breakout tanks in its Operation and Maintenance Manual. The Notice further alleged that Shore's manual did not indicate any reasons as to why compliance with API RP 651 was unnecessary. The OPS inspection report also indicates that a Shore official admitted that no cathodic protection system was installed on any of the breakout tanks, making regular inspection of those systems impossible. Respondent did not contest this violation. Accordingly, based upon a review of all of the evidence, I find that Shore violated 49 C.F.R. §195.573(d) by failing to install and inspect cathodic protection systems on qualifying breakout tanks.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.581(a)-(b), which states:

§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

The Notice alleged that Shore violated § 195.581(a)-(b) by failing to protect against atmospheric corrosion on numerous sections of aboveground piping at its facility. The OPS inspection report included photographs of the extensive corrosion on the aboveground piping associated with the breakout tanks. Respondent did not contest this allegation. Accordingly, based upon a review of all of the evidence, I find that Shore violated 49 C.F.R. §195.581(a)-(b) by failing to properly clean and coat each pipeline that is exposed to the atmosphere with a suitable material for the prevention of atmospheric corrosion.

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

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to items 1, 2, 3, and 4 in the Notice for violations of §§ 195.432(b), 195.565, 195.573(d), and 195.581(a)-(b). 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. The Director has indicated that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to Item 1, Shore confirmed that it has since developed the necessary corrosion inspection procedures and has performed corrosion inspections on a periodic basis accordance with those procedures. Shore also asserts that records of these inspections are stored and remain available for review. Further, Shore completed the painting of 4 tanks and the inspection of 5 tanks during 2007, as well as 11 more tank inspections by the end of 2008. By June 30, 2009, Shore completed inspections of all remaining breakout tanks to the satisfaction of the Director.
2. With respect to Item 2, Shore secured a contractor to install impressed cathodic protection systems for the breakout tanks in March 2008. Installation of cathodic protection systems that meet the requirements of the regulation was completed by June 30, 2009.
3. With respect to Item 3, Shore has developed procedures in its manual for inspecting the cathodic protection systems since the installation. These procedures reflect the standards named in the regulation to the satisfaction of the Director.

4. With respect to Item 4, Shore conducted an atmospheric corrosion inspection of its aboveground piping on December 17, 2007. Shore conducted the inspection both visually and with the use of specialized instruments for measuring pipe wall and coating thickness and pipe-to-ground potentials. Shore submitted the conclusions and recommendations of this inspection in its Response.

Accordingly, I find that these actions comply with the requirements of the Proposed Compliance Order and therefore are not included in this Order.

The terms and conditions of this Final Order are effective upon receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued