

Received 11/12/2015
CN

November 12, 2015

Mr. Byron Coy
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
820 Bear Tavern Road
Suite 103
West Trenton, NJ 08628

**RE: Texas Eastern Transmission, LP Response
Notice of Probable Violation (NOPV)
CPF 1-2015-1025**

Dear Mr. Coy,

On May 22 and 23, 2014, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation into an incident that occurred on the Texas Eastern Transmission, LP (Spectra Energy Partners) 30-inch diameter natural gas transmission pipeline known as Line 10, approximately 2 miles from Carmichael, Pennsylvania. The incident occurred on May 16, 2014, at 11:15 a.m. Eastern Daylight Time (EDT), and resulted in property damage of \$186,437.00 (Incident). Spectra Energy notified the National Response Center (NRC Report# 1082994) of the Incident. The events resulting in the Incident are summarized below.

Based on the results of a 2011 in-line inspection, Spectra Energy excavated Line 10 to evaluate identified anomalies. On May 16, 2014, Spectra Energy uncovered the casing of Line 10 (the pipe that surrounded the carrier pipe) at the east side of Jacob Ferry Road. A section of the casing needed to be removed to evaluate anomalies located within the casing. During the removal process, a welder was cutting the casing when the oxy-acetylene torch burned through the pressurized carrier pipe, resulting in a pinhole leak. An estimated one thousand cubic feet of natural gas was released and ignited. The carrier pipe was operating at 846 psig at the time of the release. Jacob's Ferry Road was closed to traffic from May 16 – 24, 2014 during the remediation process which included replacing 66.6 feet of pipe at the crossing. This crossing is located in a Class 1, non-high consequence area. The Incident Report identified a failure to follow procedures as a causal factor in the incident. (See DOT Form PHMSA F 71000.2 Rev 12-2012 submitted by Spectra Energy on June 11, 2014).

On September 29, 2015, PHMSA issued the above reference Notice of Probable Violation ("NOPV") alleging three (3) violations of pipeline safety regulations. On October 13, 2015,

Spectra Energy requested a Violation Report for the above referenced NOPV. PHMSA issued the Violation Report on October 15, 2015 and granted Spectra Energy a 30 day extension from receipt of the Violation Report for a response.

The following is a brief summary of PHMSA's findings and Spectra Energy's response.

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

PHMSA Finding

Spectra Energy failed to follow its written procedure, *Standard Operating Procedures, Volume 7- Welding, Procedure number: 7-2090, Procedure Name: Safety Requirements, Date: 05/12/2014, Subsection 4.8 Removal of Split Casings*, while removing the casing on Line 10. Section 4.8 states that “[w]elders shall take the following precautionary measures when using a cutting torch to remove split casing in an effort to minimize the risk of damaging or burning through the carrier pipe emphasis added).” However, the following precautionary measures stated in *Subsection 4.8* of the procedure were not taken when removing the casing.

1. “Prior to cutting, verify the gap between the carrier pipe and casing pipe. An oxy-acetylene torch may be used for cutting on casings with gap 2 [inches] and greater. Consult the Metallurgical Services Department to determine the appropriate removal method for casings with gaps less than 2 [inches]”
2. “Use an oxy-acetylene gouging tip on the cutting torch to direct the blow of the torch at an angle to the carrier pipe rather than directly at the carrier pipe”

First, Spectra Energy could not provide any documentation that demonstrated it verified the distance between the casing and carrier pipe prior to cutting. The outside diameter (O.D.) of the casing was 34 inches and the O.D. of the carrier pipe was 30 inches. Based on those measurements, the space between the casing and carrier would be less than 2 inches. Spectra Energy also could not provide any documentation that showed it conducted the required consultation to determine the appropriate removal method.

Second, Spectra Energy could not provide any documentation that it used an oxy-acetylene gouging tip. In response to a PHMSA inquiry, Spectra Energy provided an e-mail stating that a standard tip was used to remove the casing, not a gouging tip as required by its procedure.

Consequently, Spectra Energy's failure to follow its procedure, *Standard Operating Procedures, Volume 7 – Welding, Procedure number 7-2090, Procedure Name: Safety Requirements, Date: 05/12/2014, Subsection 4.8 Removal of Split Casings*, was a causal factor in this Incident.

Spectra Energy Response

Spectra Energy acknowledges that it did not follow its written standard operating procedure (SOP) 7-2090 while removing the casing pipe on Line 10. The Spectra Energy welder did not verify the gap between the carrier and casing pipe; and did not contact the Metallurgical Services Department as required in the SOP. Additionally, a standard tip was used to remove the casing, not a gouging tip, as required by the SOP.

Part E8 – Culpability of the Violation Report indicates that *“The operator failed to take appropriate action to comply with a requirement that was clearly applicable.”* Spectra Energy respectfully requests that the Culpability rating be reduced to *“After the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and corrected the non-compliance before PHMSA learned of the violation”* based on the facts stated below.

Spectra Energy contends that appropriate and corrective actions were taken after the pinhole leak was discovered and before PHMSA learned of the violation. Upon discovery of the pinhole leak, steps were taken to limit access to the Incident location to protect Spectra Energy employees and the public, and the pipeline segment was isolated and blown down. The Metallurgical Services Department was immediately informed of the incident and consulted on remedial actions.

Following the incident, Spectra Energy recognized that process control improvements were required. Spectra Energy implemented a company-wide suspension of all work that included the use of torch cutting for casing removal until the incident could be fully investigated and appropriate changes could be implemented. Spectra Energy also sent a company-wide safety alert after the incident occurred to communicate lessons learned. Spectra Energy has since made modifications to its written procedure *SOP 7-2090*, created a new written procedure, *SOP 7-2120 – “Cutting on Gas Lines / Removal of Pipeline Casings”*, and modified its *“Pipe Casing Removal Checklist”* to provide additional clarity on the requirements for casing removal. Spectra Energy has communicated the new and revised procedures and requirements for removal of pipe casing to appropriate personnel.

Spectra Energy will not contest PHMSA's finding that Spectra Energy did not follow its written procedure. However, based on the reasons stated above, Spectra Energy respectfully requests a reduction of the proposed civil penalty.

2. § 192.202 Alcohol misuse plan.

PHMSA Finding

Spectra Energy failed to follow its written alcohol misuse plan, in accordance with §199.225(a)(1), as prescribed in §199.202. Pursuant to §199.225(a)(1), as soon as practical following an accident, each operator must test each surviving covered employee for alcohol, if that employee's performance of a covered function either contributed to the accident or cannot be completely discontinued as a contributing factor to the accident. Spectra Energy's written alcohol misuse plan, *Section VI. Alcohol Misuse Prevention Program*, states: "Post-Accident Testing: ... A post-accident alcohol test shall be conducted on each employee as soon as possible but no later than 8 hours after accident...(emphasis added)". By email dated May 29, 2014, Spectra Energy stated the following: "By the time the segment was completely blown down around 5 PM, nearly 6 hours had passed since the event had begun. Alcohol testing was performed, although outside the 8-hour window."

Spectra Energy failed to conduct a post-accident alcohol test on each employee within the maximum 8-hour time frame as specified in its written alcohol misuse plan, *Section VI. Alcohol Misuse Prevention Program*.

Spectra Energy Response

Spectra Energy acknowledges that it did not conduct alcohol testing for employees whose performance of a covered function either contributed to the accident, or cannot be completely discounted as a contributing factor to the accident, as soon as practical following the accident.

Upon discovery of the pinhole leak, Spectra Energy made it a higher priority to assure that the safety of its employees, the public and the environment were protected by shutting down and isolating the pipeline segment. Immediately sending employees for alcohol testing would have impacted Spectra Energy's ability to properly manage the Incident, and thereby causing unnecessary additional risk to the public and the environment. By the time the necessary activities to assure pipeline safety were completed, more than six (6) hours had passed from the time of the leak, and the 8 hour timeframe to complete the test was

inadvertently missed. As soon as the omission was noted, both Spectra Energy employees were tested. Drug testing of those employees was completed within the required timeframe.

Part E8 – Culpability of the Violation Report indicates that *“The operator failed to take appropriate action to comply with a requirement that was clearly applicable.”* Spectra Energy contends that the appropriate actions were taken upon discovery that Spectra Energy employees were not tested within the eight (8) hour timeframe. As soon as the omission was noted, Spectra Energy employees were tested before PHMSA learned of the violation. Spectra Energy respectfully requests that the Culpability rating be downgraded to *“After the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and corrected the non-compliance before PHMSA learned of the violation.”* based on the facts stated above.

Part E9 – Good Faith of the Violation Report indicates that *“The operator did not make a reasonable interpretation of the requirement or did not have a credible justification for its actions or lack of actions.”* Spectra Energy contends that the facts stated above would indicate a credible justification for not performing the alcohol test within the 8 hour timeframe. Spectra Energy respectfully requests that the Good Faith rating be downgraded to *“The operator’s interpretation of the requirement was reasonable, and it had a credible justification for its actions or lack of actions.”* based on the facts stated above.

Spectra Energy will not contest PHMSA’s finding that Spectra Energy did not follow its alcohol misuse plan. However, based on the facts stated above, Spectra Energy maintains that pipeline safety was not compromised by failure to perform alcohol tests on employees within the required timeframe and respectfully requests an elimination or reduction of the proposed civil penalty.

3. § 192.202 Alcohol test required.

Spectra Energy failed to prepare and maintain a record stating the reasons for not promptly administering a test within two hours following the accident that occurred on May 16, 2014 as prescribed in §199.225(a)(2)(i).

During the investigation, Spectra Energy produced a list of employees who completed a post-accident drug and alcohol test including the date and time when the test was done in an e-mail dated June 4, 2014. The PHMSA inspector noted that all employees, including the two identified employees involved in cutting the casing, were tested for alcohol nearly twenty-six (26) hours after the Incident. The PHMSA inspector requested an explanation for why the

alcohol tests were administered more than twenty-four hours after the Incident. Spectra Energy replied to the PHMSA inspectors request by an e-mail dated June 18, 2014, stating:

“We are aware of the regulatory requirements for drug and alcohol testing following reportable incidents. The immediate focus after the pin hole leak occurred was to make the pipeline segment safe by isolating and blowing down the pipeline segment without causing undue hardship on the affected customers. By the time the segment was completely blown down around 5 PM, nearly 6 hours had passed since the event had begun. Alcohol testing was not performed that evening due to oversight. As soon as the omission was noted, the testing was performed, although outside the 8-hour window. Appropriate training across Spectra energy is planned to ensure this does not recur.”

Subsequently, the PHMSA inspector requested Spectra Energy to provide a copy of a record detailing why the testing was not administered within the specified timeline as required under section 199.225(a)(2)(i). Spectra Energy sent an e-mail dated July 1, 2014, in which it stated that it “is using the June 18 email [above] as its record for describing why the alcohol testing was not administered within 2 hours of the incident.” However, the e-mail dated June 18, 2014 was created more than a month after the Incident, in response to PHMSA inspector’s request for more information. After two hours had passed, Spectra Energy was required to document “the reasons the test was not promptly administered”. Spectra Energy’s June 18 email is not a qualifying record, as it was not prepared following the expiration for the two-hour testing window, and not maintained in Spectra Energy’s files and available at the time of the PHMSA inspection.

Spectra Energy Response

Spectra Energy acknowledges that it failed to prepare and maintain a record stating the reasons for not promptly administering a test within two hours following the accident.

As noted in the response to Probable Violation No. 2 above, upon discovery of the pinhole leak, Spectra Energy’s priority was to assure that the safety of its employees, the public and the environment were protected by assuring that the pipeline segment was isolated and blown down. As such, Spectra Energy inadvertently failed to prepare and maintain a record stating the reasons for not promptly administering a test within two hours following the accident.

Part E9 – Good Faith of the Violation Report indicates that “*The operator did not make a reasonable interpretation of the requirement or did not have a credible justification for its actions or lack of actions.*” Spectra Energy contends that the facts stated above show a credible justification for not preparing and maintaining a record stating the reasons for not

promptly administering a test within two hours following the accident. Spectra Energy respectfully requests that the Good Faith rating be reduced to *“The operator’s interpretation of the requirement was reasonable, and it had a credible justification for its actions or lack of actions.”*

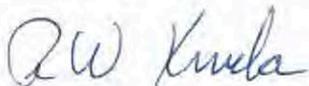
Spectra Energy received a Notice of Amendment (“NOA”), *CPF 1-2015-1015M*, for this incident on July 8, 2015. The NOA alleged that *Section VI. Alcohol Misuse Prevention Program* of the *Anti-Drug and Alcohol Misuse Prevention Plan* (the Plan) did not provide clarity on who is responsible to prepare and maintain a record that states the reason why a post-accident test was not administered within 8 hours following an accident. Spectra Energy amended *Section VI. Alcohol Misuse Prevention Program* to include responsibility for completing, within 48 hours of the incident, the Pipeline Consortium Form *“Post-Accident or Reasonable Cause/Suspicion Supervisor Written Record”*, with the reason why the test was not conducted in accordance with the Post Accident Drug/Alcohol Testing Procedure.

Spectra Energy will not contest PHMSA’s finding that Spectra Energy did not follow its alcohol misuse plan. However, based on the facts stated above, Spectra Energy maintains that pipeline safety was not compromised by failure to perform an alcohol test on both employees within the required timeframe and respectfully requests an elimination or reduction of the proposed civil penalty.

Given the facts detailed above, Spectra Energy respectfully requests PHMSA credit Spectra Energy with the diligence associated with a good faith effort to continuously improve, apply a lesser culpability factor and eliminate or reduce the civil penalties. Spectra Energy received no economic benefit from these actions. We look forward to PHMSA’s response.

Please call me at (713) 627-6388 if you have any questions or comments.

Sincerely,



Rick Kivela
Director, Operational Compliance