



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

**NOV 25 2011**

Mr. David A. Justin  
Vice President, Operations  
Sunoco Pipeline L.P.  
1818 Market Street  
Suite 1500  
Philadelphia, PA 19103-3615

**Re: CPF No. 1-2009-5003**

Dear Mr. Justin:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$232,900, and specifies actions that need to be taken by Sunoco Pipeline L.P. to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern Region, this enforcement action will be 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. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety  
Mr. Byron Coy, Director, Eastern Region, PHMSA  
Mr. Bruce D. Davis, Jr., General Counsel, Sunoco Logistics Partners L.P.  
1818 Market Street, Suite 1500, Philadelphia, PA 19103-3615

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [71791000164202902045]**

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

_____	)	
<b>In the Matter of</b>	)	
	)	
<b>Sunoco Pipeline L.P.,</b>	)	<b>CPF No. 1-2009-5003</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

On November 25-26, 2008, 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 investigation of a failure that occurred on a hazardous liquids pipeline operated by Sunoco Pipeline L.P. (Sunoco or Respondent) in Murrysville, Pennsylvania. Sunoco, a subsidiary of Sunoco Logistics Partners L.P., operates approximately 4,500 miles of hazardous liquid pipelines transporting crude oil, refined petroleum products, and highly volatile liquids in Texas, Pennsylvania, Ohio, New Jersey, and several other states.<sup>1</sup>

As a result of the investigation, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated August 14, 2009, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Sunoco had committed five violations of 49 C.F.R. Part 195 and proposed a civil penalty of \$232,900 for the alleged violations. The Notice also proposed that Respondent be directed to take specific actions to correct the alleged violations.

Sunoco responded to the Notice by letter dated September 15, 2009 (Response). In its Response, Respondent contested the allegations contained in the Notice and requested a hearing. A hearing was held on March 18, 2010, in Langhorne, Pennsylvania, with an attorney from the Office of Chief Counsel, PHMSA, presiding. Respondent submitted a post-hearing statement for the record dated April 15, 2010 (Closing).

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195 as follows:

<sup>1</sup> Sunoco has reported this mileage pursuant to 49 C.F.R. § 195.49.

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

**§ 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. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated § 195.402(a) by failing to prepare written procedures for installing completion plugs on its pipeline system. On November 25, 2008, Respondent attempted to install a completion plug into a Thread-O-Ring (TOR) fitting on the upstream side of an aboveground mainline valve on its Montello-to-Pittsburgh 8-inch pipeline. After attempting to set the completion plug using a TDW T-101 drilling machine, the plug blew out resulting in the release of approximately 280 barrels (11,760 gallons) of gasoline into the local environment and nearby Turtle Creek. The pipeline failure resulted in evacuations of homes and businesses in the immediate area and temporary closure of U.S. Route 22 in Murrysville, Pennsylvania (NRC Report #890993).

The Notice alleged that Sunoco had failed to include in its operations and maintenance manual written procedures for installing completion plugs on its pipeline system. The Notice further alleged that Respondent stated it required personnel to follow the manufacturer's instructions for setting completion plugs, but the operator could not produce a written procedure from its operations and maintenance manual outlining this requirement.

Respondent contended at the hearing and in its Closing that § 195.402(a) did not apply to the activity of installing a completion plug on November 25, 2008, because it was not a "normal operation or maintenance activity" to which the regulation applies. Sunoco explained that the "work being done was for the installation of [pig] launching and receiving traps," which constituted a construction project rather than an operations or maintenance activity.<sup>2</sup>

The evidence in the record shows that on the date in question, Respondent was installing a completion plug on the pipeline to complete a "tapping," an activity that involved installing a TOR fitting, drilling an opening into the pipeline through the fitting, and then plugging the fitting to prevent product from escaping through the opening. The pipeline segment had been isolated prior to the work being performed, but the segment still contained gasoline at pipeline pressure. The tapping of an operational pipeline, including the installation of a completion plug to finish the tap and prevent release, is an activity that if not properly performed presents a risk of release that threatens public safety and the environment. By comparison, construction activities are associated with installing new pipeline. For this reason, I find Respondent's tapping of an in-

---

<sup>2</sup> Closing at 2.

service pipeline and installing a completion plug to seal the tap fell within the scope of conduct considered an operations or maintenance activity under § 195.402(a). Therefore, Sunoco was required to have written procedures for the activity.<sup>3</sup>

Sunoco also contended that it had written procedures for the installation of completion plugs in accordance with § 195.402(a). Specifically, Respondent pointed to its *DOT 195 Maintenance Manual, Subpart F-195.402(a)* and *Subpart G-195.505* (O&M Manual). The O&M Manual referenced Respondent's *Operator Qualification OQP-482 Hot Tapping* procedure (*OQP-482*), which Sunoco explained also contained a sub-task for installing completion plugs.<sup>4</sup> The company introduced these procedures as well as procedures from its qualification program, *JPM-OQP-482-001 Preparing for Hot Tapping* and *JPM-OQP-482-002 Completing Tap*.<sup>5</sup>

Respondent argued that its OQ procedure *OQP-482* complied with any requirement to have written procedures for installing completion plugs. The *OQP-482* procedure stated that its purpose was: "To provide instructions for performing/monitoring and control of cutting or drilling an opening into an in-service pipeline facility without interfering with the normal operation of the facility."<sup>6</sup> Section 1.1.1 of the procedure required personnel to review the tapping machine manufacturer's instructions prior to proceeding to the job site.<sup>7</sup> Section 4.4 stated: "When tapping and/or cutting with the hot tapping machine, the manufacturer's instructions must be followed."<sup>8</sup> Section 4.12 required Respondent to "Cap or plug tap valve connection until ready for use."<sup>9</sup> These same procedures were repeated in Sunoco's OQ tasks *JPM-OQP-482-001* and *JPM-OQP-482-002*.<sup>10</sup>

After reviewing Respondent's O&M Manual and OQ procedures, I find that Respondent's procedures were deficient in several regards. First, Respondent's O&M Manual did not include written procedures for tapping or installing completion plugs. Although the O&M Manual cross-referenced the company's OQ procedures, it did not explicitly state that the OQ procedures were being adopted into the O&M Manual. For example, Section 195.402.a-01 of the O&M Manual lists among various Sunoco manuals and specifications both the *DOT 195 Operations Manual* and the *Operator Qualification Procedures*. Section 195.505-02 of the O&M Manual specifies that the OQ Written Program is comprised of various sections, including "OQ-Appendix F, Covered Task Procedures." But the written O&M procedures did not explain that personnel were to consult any of these OQ procedures when performing operations and maintenance activities.

---

<sup>3</sup> Sunoco also argued the activity is not "normally" performed, but the word "normal" in § 195.402(a) qualifies the term "operations" to distinguish between normal and abnormal operations. See § 195.402(c)-(d).

<sup>4</sup> Closing, Exhibits 1 and 1A.

<sup>5</sup> Closing, Exhibits 2 and 3.

<sup>6</sup> Closing, Exhibit 1A at 1.

<sup>7</sup> Closing, Exhibit 1A at 5.

<sup>8</sup> Closing, Exhibit 1A at 11.

<sup>9</sup> Closing, Exhibit 1A at 12.

<sup>10</sup> By comparison, the TDW T-101 drilling machine manufacturer's installation procedures consisted of approximately nine pages of detailed instructions on the proper installation and use of completion plugs. Violation Report, Exhibit A, Item 10.

With regard to *OQP-482*, although the OQ procedures included a general requirement for individuals to follow the manufacturer's set of instructions when tapping or cutting with a hot tapping machine, Respondent's procedures did not identify the precise manufacturer's instructions by name and direct individuals to specific provisions applicable to the relevant stages of the installation. If Respondent intended to adopt external instructions by reference, the company's own written procedures must either reproduce those instructions in the manual or identify the instructions by name and include the location where the instructions are located to ensure that employees will follow the correct procedures. Merely referring to "manufacturer's instructions" without any additional identifying information is insufficient.

Moreover, it appears there was some inconsistency between Respondent's *OQP-482* procedure and the TDW T-101 drilling machine manufacturer's instructions in this case. Section 4.11 of Sunoco's procedures permitted the removal of the tapping machine prior to capping or plugging, but if the tapping machine is removed as permitted under Section 4.11, a completion plug cannot be installed in accordance with the manufacturer's instructions and Respondent's Section 4.12 procedure, as the TDW tool would have already been removed.

In its Closing, Sunoco argued that § 195.402(a) "does not require any particular level of detail, it only requires that there be a procedure."<sup>11</sup> I do not accept this argument. Section 195.402 requires that the written procedures at a minimum be "effective" in order to "provide safety during maintenance and normal operations."<sup>12</sup> Procedures that are ineffective or that do not provide an acceptable level of safety may be found in noncompliance. In prior enforcement cases, PHMSA has found an operator's procedures were in violation of the regulatory requirement because they were similarly inadequate or lacking in sufficient detail.<sup>13</sup> In the present case, Sunoco's procedures were ineffective because the O&M Manual did not contain procedures for installing a completion plug, the manual referenced but did not explicitly incorporate OQ procedures that included a general requirement to follow additional instructions, the OQ procedures did not identify those additional instructions and where they were located, and the OQ procedures appeared to be in conflict with the additional instructions.

Accordingly, after considering all of the evidence, I find that Respondent violated § 195.402(a) by failing to prepare effective written procedures for installing a completion plug on its pipeline facility.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), quoted above, by failing to follow its written procedures, which directed personnel to follow the manufacturer's instructions when tapping or cutting with a hot tapping machine. Specifically, the Notice alleged that Sunoco did not properly calculate the travel distance required for the completion plug to set completely and securely in the TOR fitting, as specified in the manufacturer's *T-101a Operating*

---

<sup>11</sup> Closing at 2.

<sup>12</sup> § 195.402(a) and (c).

<sup>13</sup> See, e.g., *In the Matter of CPN Pipeline Co.*, Final Order, CPF No. 5-2007-1006, at 7, 2009 WL 5538654 (Dec. 16, 2009) (finding that an ineffective cross-reference in the operator's procedures constituted a violation of § 192.911(k)); *In the Matter of ChevronTexaco Pipeline Co.*, Final Order, CPF No. 5-2002-0006, at 1, 2003 WL 25429840 (Oct. 6, 2003) (finding that the absence of sufficient detail in the procedures to allow employees to effectively respond to abnormal and emergency situations constituted a violation of § 192.605) (available online at "<http://www.phmsa.dot.gov/pipeline/enforcement>").

and Maintenance Instructions (TDW instructions). After Respondent had installed the completion plug, the plug allegedly blew out because it had not been completely set in accordance with the manufacturer's instructions.

Sunoco contended that it had followed its own written procedures in accordance with § 195.402(a). Respondent stated that it performed the activity "in accordance with their training and the JPM [job performance measures] criteria," referring to qualification procedures *JPM-OQP-482-001* and *JPM-OQP-482-002*. With respect to the manufacturer's installation procedures, Sunoco argued that the regulation does not require the company to follow the manufacturer's procedures and that its OQ procedures did not require that the manufacturer's procedures be followed "to the exclusion of the operator's training and JPM qualifications."<sup>14</sup>

Section 195.402(a) requires an operator to follow its manual of written procedures for conducting normal operations and maintenance activities. Although I found in Item 1 that Respondent's procedures were inadequate, Sunoco's *OQP-482* procedure required personnel to review and follow the tapping machine manufacturer's instructions prior to proceeding to the job site and also when physically tapping the pipeline. In the record is also evidence that Respondent's personnel acknowledged that employees were supposed to follow the manufacturer's installation instructions. Accordingly, under § 195.402(a), Respondent was required to follow these procedures during the tapping activity on November 25, 2008.

Section 1.1.1 of Respondent's OQ Procedures required personnel to review the tapping machine manufacturer's instructions prior to proceeding to the job site. In addition, Section 4.4 of Respondent's procedures stated: "When tapping and/or cutting with the hot tapping machine, the manufacturer's instructions must be followed." The tapping machine manufacturer's instructions, specifically Section III, Paragraph 2.2 of the TDW instructions, specified how to determine the distance the completion plug must travel to completely set in the TOR fitting. In addition, Paragraph 2.4 specified how to set the completion plug. This paragraph contained the following warning: "If the measurements taken in paragraph 2.2 cannot be attained, do not assume plug is set. Do not remove valve. Thread-o-ring is not completely set. Follow removal instructions, check all work including measurements, and reset."<sup>15</sup>

Although Respondent argued that it had installed the completion plug in accordance with its procedures, there is no evidence that the company determined the distance for the completion plug to travel as required by the TDW instructions. The evidence in the record proves it was more likely that Sunoco failed to follow the instructions resulting in an improperly set plug. During the PHMSA investigation, evidence was produced that suggested the pipe riser may have been slightly oval shaped, which could have interfered with the completion plug reaching the proper seat depth.<sup>16</sup> Similarly, Respondent attributed the failure of the plug to a faulty TOR nipple (into which the completion plug was to be installed), which prevented the uninhibited insertion of the completion plug.<sup>17</sup> Had Respondent followed the TDW instructions to determine the proper distance the completion plug must travel to be completely set, the company would

---

<sup>14</sup> Closing at 3.

<sup>15</sup> Violation Report, Exhibit A, Item 10, pages 18-19.

<sup>16</sup> Violation Report at 5.

<sup>17</sup> Closing at 1.

have likely identified any issue preventing the plug from being correctly installed.

Finally, Sunoco argued that PHMSA cannot find the company in violation for both failing to have written procedures (Item 1) and failing to follow the written procedures (Item 2).

In Item 1, I found that Respondent's procedures were ineffective and lacking in detail, which constituted a violation of the regulatory requirement. Although they were ineffective for purposes of compliance with the regulatory standard, the procedures nevertheless included a requirement for personnel to follow the manufacturer's instructions when tapping or cutting with a hot tapping machine. The evidence demonstrates Sunoco failed to comply with those instructions, and therefore failed to comply with its own procedures. Sunoco's failure to follow its procedures is a separate offense from the company's failure to prepare procedures that satisfy the regulation. Therefore, I find Sunoco may be found in violation for both.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its written procedures for installing the completion plug.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(a), which states:

**§ 195.505 Qualification program.**

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

(a) Identify covered tasks; . . .

The Notice alleged that Respondent violated § 195.505(a) by failing to identify the installation of completion plugs as a covered task in its written OQ program. Sunoco's OQ program had two methods for qualifying individuals to perform covered tasks: (1) a commercial method developed by the National Center for Construction Education and Research (NCCER); and (2) an internal method developed by Sunoco that uses job performance measures (JPM), an employee reviewer (usually a supervisor), and a list of task-specific requirements and questions that the qualifying individual completes.

The Notice alleged that Respondent's JPM method for qualifying individuals to perform pipeline tapping (under procedures *JPM-OQP-482-001* and *JPM-OQP-482-002*) did not identify the installation of completion plugs as a covered task for which individuals must be qualified, and that only the NCCER method identified the installation of completion plugs as a covered task.<sup>18</sup>

Respondent contended that the installation of a completion plug is not a covered task and therefore the qualification requirements in § 195.505(a) were not applicable. Respondent explained that the activity does not meet the four-part test for a covered task because the activity is neither a maintenance task nor required by Part 195.

Section 195.501(b) provides that "a covered task is an activity, identified by the operator, that: (1) Is performed on a pipeline facility; (2) Is an operations or maintenance task; (3) Is performed as a requirement of this part; and (4) Affects the operation or integrity of the pipeline." I have

<sup>18</sup> Respondent clarified that the correct NCCER task applicable to installing a completion plugs as part of a TOR assembly is NCCER task 40.8, not 40.91.

already determined in Item 1, above, that tapping a pipeline and installing a completion plug is an operations or maintenance task. In addition, the task is performed on a pipeline facility and, as evident from the events of November 25, 2008, the activity has the potential to affect the operation and integrity of the pipeline.

Respondent argued that tapping a pipeline and installing a completion plug is not performed as a requirement of Part 195. I disagree. There are a number of pipeline safety requirements that apply directly to the tapping of a pipeline and installing a completion plug, including requirements in Subparts C and D of Part 195, which prescribe minimum design and installation requirements. These requirements must be followed when installing a fitting, plug, or any pipeline component. Since this function must be performed in accordance with the requirements in Part 195, I find that tapping a pipeline and installing a completion plug to complete the tap is an activity that must be identified as an OQ covered task and that individuals performing the activity must be qualified.<sup>19</sup>

Respondent contended further that its JPM method properly included the activity of installing a completion plug as a “sub-task” of the covered task for tapping a pipeline. The company explained that it has polled several other pipeline operators and none of them listed the installation of a completion plug as a covered task in their OQ programs, but rather considered the activity to be a sub-task within the general covered task of tapping a pipeline.

The OQ regulations at §§ 195.501(b) and 195.505(a) do not refer to “sub-tasks.” If an operations or maintenance activity meets the four-part test for a covered task, it does not matter whether an operator identifies the activity as a separate covered task or an element of another covered task, so long as the activity has been identified as requiring qualification to perform and the operator has a process in place to ensure through evaluation that individuals performing the activity are qualified. Respondent may refer to the installation of a completion plug as a “sub-task” of tapping a pipeline, but because installing a completion plug to close the tap is a basic element of tapping that meets the four-part test for a covered task, the operator’s OQ program must identify installing a completion plug to close the tap as a task requiring qualification.<sup>20</sup>

Although the procedures in Section 4.12 of Respondent’s *JPM-OQP-482-002* specified that an individual must “Cap or plug [the] tap valve connection [to seal the opening] until [it is] ready for use,” this limited procedure by itself did not identify the installation of completion plugs as a covered task for which personnel must be qualified. In addition, the lack of details in the procedure resulted in there not being a process by which to ensure individuals can be evaluated to determine if they are qualified to perform the task.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(a) by failing to identify the installation of a completion plug as a covered task in its OQ program.

---

<sup>19</sup> Qualified means that “an individual has been evaluated and can: (a) Perform assigned covered tasks and (b) Recognize and react to abnormal operating conditions.” § 195.503.

<sup>20</sup> See *Enbridge Energy Partners, L.P.*, Final Order, CPF No. 3-2008-5011, at 12 (Aug. 17, 2010) (finding the installation of Weld+Ends couplings is a covered task even if the operator’s procedures included the activity under a combined OQ item).



**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b), which states:

**§ 195.505 Qualification program.**

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

- (a) . . . .
- (b) Ensure through evaluation that individuals performing covered tasks are qualified; . . .

The Notice alleged that Respondent violated § 195.505(b) by failing to ensure through evaluation that an individual installing a completion plug was qualified to perform the task. Specifically, the Notice alleged that one of the employees installing the completion plug on November 25, 2008, had been qualified for tapping a pipeline under *JPM-OQP-482*, but that procedure was insufficient to ensure through evaluation that he was qualified to install a completion plug.<sup>21</sup>

Respondent reiterated that the installation of a completion plug is not a covered task and therefore the qualification requirements in § 195.505(b) were not applicable. I have already determined the installation of a completion plug was required to be identified in the OQ program as a covered task for which individuals must be qualified. Therefore, Respondent was required to ensure through evaluation that individuals installing completion plugs were qualified under § 195.505(b).

Respondent also argued the employee was qualified under *JPM-OQP-482* to install completion plugs because the activity is a “sub-task” of the covered task of tapping a pipeline.

The only reference to installing a “plug” in the applicable sections of Respondent’s *JPM-OQP-482* is Section 4.12, which specified that an individual must “Cap or plug tap valve connection until ready for use.” As indicated above, this statement is too limited to be used in evaluating whether someone is qualified to perform all that is required to safely install a completion plug. Therefore, I find that Respondent did not ensure through evaluation that the employee could perform the task of installing a completion plug safely.

Finally, Sunoco contended that even if the employee was not qualified to install a completion plug, the individual was being directed and observed by the other employee present during the activity, who was qualified.

Section 195.505(c) provides that someone who is not qualified may perform a covered task if directed and observed by an individual that is qualified. After a review of the record, I find no evidence to support Respondent’s assertion that the unqualified individual was being directed and observed by the other. Both individuals were present at the site performing the installation activity, but there is no evidence that a “direct and observe” arrangement had been established between them in accordance with any written procedures prepared by Sunoco.<sup>22</sup>

---

<sup>21</sup> The Notice alleged the other employee installing the completion plug on November 25, 2008, had been properly qualified under the NCCER method.

<sup>22</sup> See *In The Matter of Williams Gas Pipeline–Transco*, Final Order, CPF No. 1-2005-1007, at 11, 2007 WL 2475903 (Jul. 18, 2007) (finding that an operator must be able to present documentation that it followed its own procedures for allowing an unqualified individual to perform a covered task at the direction and under the observation of an individual who is qualified).

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(b) by failing to ensure through evaluation that the individual performing a covered task was qualified.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(h), which states:

**§ 195.505 Qualification program.**

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

(a) . . . .

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; . . .

The Notice alleged that Respondent violated § 195.505(h) by failing to provide training to ensure that individuals installing completion plugs have the knowledge and skills to perform the task in a safe manner. Specifically, the Notice alleged that Sunoco was unable to provide any documentation that either employee had received training on the installation of completion plugs.

Respondent reiterated that the installation of completion plugs is not a covered task and therefore the training requirements under § 195.505(h) are not applicable. I have determined above that the installation of completion plugs is a covered task. Therefore, Respondent was required to ensure that all individuals received the appropriate training under § 195.505(h).

Respondent argued that since both employees were qualified, it follows necessarily that the individuals were also trained, because individuals must be trained to be qualified. Respondent highlighted that one of the employees had 16 years of experience, which should prove that he was adequately trained.

Section 195.505(h) requires operators to provide training to individuals that are performing covered tasks. The regulation does not exempt from this requirement employees who are already qualified or who have many years of experience. Qualifications alone do not prove that Respondent provided training, because individuals may pass a qualification evaluation based on experience and ability. I have already determined that one of the employees was not properly qualified, but regardless of whether the employees were qualified, Respondent must still provide training as mandated by the regulation. Training is in addition to the qualifications an individual may have and ensures the individual has the knowledge and skills to perform the covered task in a manner that ensures safety.<sup>23</sup>

Sunoco did not present any evidence that it had a training program for the installation of completion plugs, such as written training material or records showing the dates individuals completed training. Therefore, I do not find support for Respondent's assertion that it provided training on the installation of completion plugs to the two employees who were performing the activity on November 25, 2008.

---

<sup>23</sup> Respondent contended that the regulation does not require the company to maintain any records of its training, but § 195.507 requires operators to "maintain records that demonstrate compliance with this subpart," which includes training under § 195.505(h).

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(h) by failing to provide training to ensure that individuals installing completion plugs have the knowledge and skills to perform the task in a safe manner.

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

### ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

The Notice proposed a total civil penalty of \$232,900 for the violations in Items 1, 2 and 5.

**Item 1:** The Notice proposed a civil penalty of \$32,900 for Respondent's violation of 49 C.F.R. § 195.402(a). Respondent violated § 195.402(a) by failing to prepare written procedures for installing a completion plug on its pipeline facility. Sunoco's procedures were ineffective because the O&M Manual did not contain procedures for installing a completion plug, the O&M Manual referenced but did not explicitly incorporate separate OQ procedures that included a general requirement to follow additional instructions, the OQ procedures did not explicitly identify the additional instructions and where they were located, and the OQ procedures appeared to be in conflict with the additional instructions.

Respondent's failure to have effective written procedures for installing a completion plug as part of normal operations and maintenance activities presented a risk to public safety, property, and the environment. That risk was realized on November 25, 2008, when Respondent attempted to install the plug into a TOR fitting using a drilling machine and the plug blew out resulting in the release of approximately 280 barrels of gasoline into the local environment and nearby creek. The failure also resulted in evacuations of homes and businesses in the immediate area and temporary closure of a public highway.

Respondent argued the accident did not occur due to a lack of procedures, but rather as a result of a faulty TOR nipple, which prevented complete insertion of the plug. Respondent argued the penalty was therefore excessive.

I find the alleged fault with the component does not lessen the nature, circumstances, or gravity of the violation, because Respondent was required to have and follow procedures that include, among other things, steps for ensuring the proper installation of the plug, including detecting if the plug does not set properly. Respondent's failure to have such procedures reduced the probability the company would identify the improper setting of the completion plug. The violation contributed to an accident that occurred in a high consequence area (HCA), as defined in § 195.450.<sup>24</sup> For all of these reasons, I find the nature, circumstances, and gravity of the violation justify the proposed civil penalty.

Respondent is culpable for this violation, meaning as the operator of the pipeline, Respondent bears the blame for failing to prepare written procedures for its pipeline system. I have considered whether the company's good faith or history of prior offenses warrant reducing the proposed civil penalties, and find they do not.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$32,900 for violation of 49 C.F.R. § 195.402(a).

**Item 2:** The Notice proposed a civil penalty of \$100,000 for Respondent's violation of 49 C.F.R. § 195.402(a). Respondent violated § 195.402(a) by failing to follow its written procedures, which required the company to review and follow the manufacturer's instructions during installation of the completion plug using a drilling machine. Sunoco attempted to install the completion plug without properly calculating the travel distance necessary for the plug to set completely and securely in the TOR fitting, as required by the manufacturer's instructions. The plug blew out resulting in the release of gasoline into the environment, the evacuation of homes and businesses, and closure of a public highway.

Respondent argued the accident did not occur because of any failure to follow procedures, but rather as a result of the faulty TOR nipple. For this reason, Respondent argued the penalty was excessive.

As noted above, the alleged fault with the component does not lessen the nature, circumstances, or gravity of the violation, because the instructions that Respondent failed to follow included, among other things, steps for the operator to take to detect if the plug did not set properly. Respondent's failure to follow those procedures reduced the probability the company would identify the issue preventing the proper setting of the completion plug. The violation contributed to the accident that occurred in an HCA. For all of these reasons, I find the nature, circumstances, and gravity of the violation justify the proposed civil penalty.

Respondent is culpable for this violation, meaning as the operator of the pipeline, Respondent bears the blame for failing to follow the written procedures the company has prepared for its pipeline system. I have considered whether the company's good faith or history of prior offenses warrant reducing the proposed civil penalties, and find they do not.

In its Response, Respondent argued the civil penalties for Items 1 and 2 are duplicative because they "seek to punish Sunoco Pipeline L.P. for essentially the same alleged violation."<sup>25</sup>

---

<sup>24</sup> Violation Report at 3.

<sup>25</sup> Response at 1.

As noted above, the company's failure to follow its procedures is a separate offense from the company's failure to have procedures that satisfied the regulation. Therefore, I find Sunoco may be found in violation for both and may be assessed separate civil penalties for the violations.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$100,000 for violation of 49 C.F.R. § 195.402(a).

**Item 5:** The Notice proposed a civil penalty of \$100,000 for Respondent's violation of 49 C.F.R. § 195.505(h). Respondent violated § 195.505(h) by failing to provide training to ensure that individuals installing completion plugs had the knowledge and skills to perform the task in a safe manner. Sunoco had not provided training on the installation of completion plugs to those individuals who performed the activity on November 25, 2008. As noted above, the completion plug blew out after they attempted an installation resulting in the release of gasoline into the environment, evacuation of homes and businesses, and closure of a highway.

Respondent argued the accident did not occur because of any lack of training, but rather as a result of a faulty TOR nipple. For this reason, Respondent argued the penalty was excessive.

As stated above, any alleged fault with the component does not lessen the nature, circumstances, or gravity of this violation, particularly since Respondent had not provided appropriate training to these individuals on the proper procedures for detecting potential defects that could cause a completion plug to fail. Respondent's failure to provide training for these individuals on the proper installation of a completion plug contributed to the accident that occurred in an HCA. For these reasons, I find the nature, circumstances, and gravity of the violation justify the proposed civil penalty.

Respondent is culpable for this violation, meaning as the operator of the pipeline, Respondent bears the blame for failing to provide training to its employees. I have considered whether the company's good faith or history of prior offenses warrant reducing the proposed civil penalties, and find they do not.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$100,000 for violation of 49 C.F.R. § 195.505(h).

In summary, having reviewed the record and considered the assessment criteria for each of the Items above, I assess Respondent a total civil penalty of **\$232,900**.

Respondent did not provide any evidence suggesting the company is unable to pay the civil penalty. Therefore, I find Respondent is able to pay the penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$232,900 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

### COMPLIANCE ORDER

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 Notice proposed a compliance order with respect to Items 1, 3 and 4 in the Notice for the violations described above.

In its Response, Respondent indicated that it had “completed several of [the] remedial requirements in the Proposed Compliance Order and therefore the inclusion of these is unnecessary.”<sup>26</sup> The measures Sunoco indicated that it performed include providing additional training and amending its O&M Manual and *OQP-JPM-482*.

During the hearing, the Director requested that Sunoco submit documentation of these remedial actions. In its Closing, Respondent did not include any evidence to confirm that it had performed these actions. Therefore, I find the record does not support Respondent’s contention that a Compliance Order is unnecessary.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.402(a) (**Item 1**), Respondent must amend its manual of written procedures for operations and maintenance to include specific procedures for installing completion plugs. The procedures may be developed by Sunoco or may be from another source, provided the source material is incorporated verbatim or referenced by name and made readily available as part of the operations and maintenance procedures.
2. With respect to the violation of § 195.505(a) (**Item 3**), Respondent must amend its qualification procedures to identify the installation of a completion plug as a covered task for which individuals must be qualified. The procedures must include sufficient details regarding installation of a completion plug to ensure that individuals can be properly qualified to perform the activity.
3. With respect to the violation of § 195.505(b) (**Item 4**), Respondent must re-qualify each individual who installs a completion plug using the new qualification procedures prepared pursuant to this Compliance Order.

---

<sup>26</sup> Response at 2.

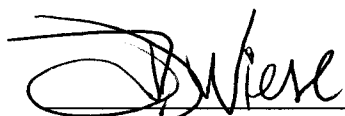
4. Sunoco must complete the requirements of this Compliance Order within 180 days of receipt of the Final Order. All documentation demonstrating compliance with this order must be submitted to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Road, Suite 306, West Trenton, NJ 08628. Documentation may be submitted electronically if feasible.
5. It is requested that Sunoco maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and report the total cost as follows:  
(a) total cost associated with preparation and revision of plans and procedures, and performance of studies and analyses; and (b) total cost associated with physical changes, if any, to the pipeline infrastructure, including replacements and additions.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.215, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator for Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. A petition will be accepted if received no later than 20 days after Respondent's receipt of this Final Order, provided it meets all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



---

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

**NOV 25 2011**

---

Date Issued