

JUNE 13, 2013

Mr. Michael J. Hennigan
President
Sunoco Pipeline, LP
1818 Market Street
Suite 1500
Philadelphia, PA 19103

Re: CPF No. 1-2012-5019

Dear Mr. Hennigan:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$22,500. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Byron Coy, PE, Director, Eastern Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Kevin Dunleavy, Chief Counsel, Sunoco, Inc., 1735 Market Street, Suite LL,
Philadelphia, PA 19103
Mr. David Chalson, Vice President, Operations, Sunoco Pipeline, LP, 4041 Market
Street, Aston, PA 19014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)	
)	
Sunoco Pipeline, LP,)	CPF No. 1-2012-5019
)	
Respondent.)	
)	

FINAL ORDER

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 an incident involving the hazardous liquid pipeline system operated by Sunoco Pipeline, LP (Sunoco or Respondent), in Sharon Hill, Pennsylvania. The accident occurred at Sunoco’s Darby Creek Tank Farm (DC Tank Farm), a large crude-oil storage terminal serving the company’s Philadelphia refinery.¹ The company operates over 7,500 miles of hazardous liquid pipelines in 14 states.²

The investigation revealed that on February 8, 2011, corrosion on the bottom of one of the DC Tank Farm’s breakout tanks caused a crude oil spill, resulting in a loss of approximately 38 barrels (Failure).³ According to the company, the spill was identified by its local operating personnel, was wholly contained on its property, and caused soil, but not water, contamination.⁴

After reviewing Respondent’s accident reports describing the Failure, the Director, Eastern Region, OPS, issued to Respondent, by letter dated November 6, 2012, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Sunoco had violated 49 C.F.R. § 195.54(b) and proposed assessing a civil penalty of \$22,500 for the alleged violation.

Sunoco responded to the Notice by email dated December 4, 2012 (Response). The Response

¹ Sunoco Logistics, Terminal Facilities, *available at* <http://www.sunocologistics.com/Customers/Business-Lines/Terminal-Facilities/54/> (last accessed May 20, 2013).

² Sunoco Logistics, Integrity Management Plan, *available at* <http://www.sunocologistics.com/Public-Awareness/Pipeline-Integrity/Integrity-Management-Plan/111/> (last accessed May 20, 2013).

³ Pipeline Safety Violation Report (Violation Report), (Nov. 6, 2012) (on file with PHMSA) at app. A 1, 5-7.

⁴ Violation Report at app. A 2-3.

did not contest the allegation of violation and indicated Sunoco's intention to pay the proposed penalty. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In the Response, Sunoco did not contest the allegation 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. § 195.54, which states:

§ 195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under § 195.50 must, as soon as practicable, but not later than 30 days after discovery of the accident, file an accident report on DOT Form 7000-1.

(b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b) by failing to submit a timely supplemental report after receiving changes or additions to the information contained in its original accident report. Specifically, the Notice alleged that on March 7, 2011, Sunoco submitted an original accident report describing the Failure but without identifying its cause. Based on a subsequent out-of-service inspection dated April 20, 2011, a Sunoco contractor identified the cause of the spill: a combination of topside corrosion, caused by a coating failure, and soilside corrosion that together produced a hole in the tank bottom.⁵ Sunoco did not file a supplemental report with such additional information until April 30, 2012, roughly 11 months after the deadline for filing a supplemental accident report.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.54(b) by failing to submit a supplemental report within 30 days of receiving changes or additions to the information contained in its original accident report.

This finding of violation will be considered a prior offense 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,

⁵ Violation Report at app. B, page 5.

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 \$22,500 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$22,500 for Respondent's violation of 49 C.F.R. § 195.54(b), for failing to submit a timely supplemental report after receiving changes or additions to the information contained in its original accident report. Sunoco neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Although the company's failure to file a timely supplemental report did not directly affect public safety or the environment, it did impact PHMSA's safety mission. The agency requires operators to supplement their accident reports because PHMSA needs accurate and complete reports to effectively target its resources on those problems that cause accidents. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$22,500 for violation of 49 C.F.R. § 195.54(b).

In summary, having reviewed the record and considered the assessment criteria for the single Item cited above, I assess Respondent a total civil penalty of **\$22,500**.

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.

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

Date Issued