

DECEMBER 26, 2013

Mr. James S. Loving
President
National Cooperative Refinery Association
2000 South Main Street
McPherson, Kansas 67460

Re: CPF No. 3-2013-5018

Dear Mr. Loving:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by National Cooperative Refinery Association to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Central 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. Richard S. Peterson, Vice President, Transportation, National Cooperative Refinery Association
Ms. Linda Daugherty, Director, Central Region, OPS

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)	
)	
National Cooperative Refinery Association, a nonprofit corporation,)	CPF No. 3-2013-5018
)	
Respondent.)	
)	

FINAL ORDER

On April 12-16, April 19-23, and April 26-30, 2010, 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 National Cooperative Refinery Association (NCRA or Respondent) in Kansas, Iowa, and Nebraska. NCRA operates a refinery in McPherson, Kansas, and transports product from that refinery through a system of pipelines throughout Kansas, Nebraska, and Iowa.¹ PHMSA’s inspection covered five pipelines running between NCRA’s refinery in McPherson and its underground storage facility in Conway, Kansas.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated June 21, 2013, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NCRA had violated 49 C.F.R. §§ 195.302(a), 195.402(a) and 195.404(c)(3) and ordering Respondent to take certain measures to correct the alleged violations.

NCRA responded to the Notice by letter dated July 10, 2013 (Response). The company 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 NCRA website, *available at* <http://www.ncra.coop/MediaCenter/Gettoknow.pdf> (last accessed November 1, 2013).

² Pipeline Safety Violation Report (Violation Report), (June 21, 2013) (on file with PHMSA), at 1.

FINDINGS OF VIOLATION

In its Response, NCRA 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. § 195.302(a), which states:

§ 195.302 General requirements.

(a) Except as otherwise provided in this section and in §195.305(b), no operator may operate a pipeline unless it has been pressure tested under this subpart without leakage. In addition, no operator may return to service a segment of pipeline that has been replaced, relocated, or otherwise changed until it has been pressure tested under this subpart without leakage.

The Notice alleged that Respondent violated 49 C.F.R. § 195.302(a) by operating a pipeline that had not been pressure tested without leakage, in accordance with Subpart E of 49 C.F.R. Part 195. Specifically, the Notice alleged that NCRA had failed to perform pressure tests on its McPherson-to-Conway pipeline system. The Notice further alleged that the maximum operating pressure for this system had not been established, as required by 49 C.F.R. § 195.302(b)(1).

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. § 195.302(a) by operating a pipeline that had not been pressure tested without leakage, in accordance with Subpart E of 49 C.F.R. Part 195.

Item 2: 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 49 C.F.R. § 195.402(a) by failing to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. Specifically, the Notice alleged that NCRA had failed to prepare or incorporate into its existing Operations and Maintenance (O&M) manual written procedures for each of the specific requirements described in 49 C.F.R. § 195.402(c), (d), and (e).

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. § 195.402(a) by failing to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.404(c)(3), which states:

§ 195.404 Maps and records.

(a) . . .

(c) Each operator shall maintain the following records for the periods specified: . . .

(1) . . .

(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(c)(3) by failing to maintain a record of each inspection and test required by Subpart F of 49 C.F.R. Part 195 for at least two years or until the next inspection or test is performed, whichever is longer. Specifically, the Notice alleged that NCRA failed to maintain records of all inspections and tests required by Subpart F of Part 195 that had been performed on its McPherson-to-Conway pipeline system.

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. § 195.404(c)(3) by failing to maintain records of each inspection and test required by Subpart F of 49 C.F.R. Part 195 for at least two years, or until the next inspection or test is performed, whichever is longer.

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, and 3 in the Notice for violations of 49 C.F.R. §§ 195.302(a), 195.402(a), and 195.404(c)(3), respectively. 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. 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 § 195.302(a) (**Item 1**), Respondent must submit copies of pressure test records consistent with 49 C.F.R. § 195.310 for the McPherson-to-Conway pipeline system. Respondent must also submit a listing of the established maximum operating pressure(s) for the McPherson-to-Conway pipeline system.

2. With respect to the violation of § 195.402(a) (**Item 2**), Respondent must submit a manual of written procedures for conducting normal operations and maintenance and handling abnormal operations and emergencies.
3. With respect to the violation of § 195.404(c)(3) (**Item 3**), Respondent must submit the latest record of all required inspections and tests, including but not limited to:
 - a. Inspections of rights-of-way;
 - b. Valve maintenance;
 - c. Pipeline repairs or modifications completed in 2012;
 - d. Inspections of overpressure safety devices and overfill protection systems;
 - e. Inspections of firefighting equipment;
 - f. Inspections of breakout tanks; and
 - g. Inspections, surveys, or tests of the corrosion control system.
4. Respondent must submit all documentation required by this Compliance Order within 30 days of receipt of this Final Order and in electronic format, whenever possible.
5. PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. PHMSA requests that Respondent report these costs in two categories: (1) total cost associated with preparation and revision of plans, procedures, studies, and analyses; and (2) total cost associated with replacements, additions, and other changes to pipeline infrastructure.

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 and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 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.

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