

April 24, 2020

VIA EMAIL TO: mmeloy@targaresources.com

Mr. Matthew J. Meloy
Chief Executive Officer
Targa Resources Operating, LLC
811 Louisiana, Suite 2100
Houston, Texas 77002

Re: CPF No. 3-2019-6003

Dear Mr. Meloy:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$22,800, and specifies actions that need to be taken by Targa Resources Operating, LLC, a subsidiary of Targa Resources Corporation, to comply with the pipeline safety regulations. This also acknowledges receipt of payment of the full penalty amount, by wire transfer, dated November 15, 2019. 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 electronic mail is deemed complete upon transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Allan C. Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Gregg Johnson, Director of Pipeline Compliance, Targa Resources Corporation,
gjohnson@targaresources.com
Ms. Julie Pabon, Senior Counsel, Targa Resources Corporation, jpabon@targaresources.com

CONFIRMATION OF 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)

Targa Resources Operating, LLC,)
a subsidiary of Targa Resources Corporation,)

Respondent.)

CPF No. 3-2019-6003

FINAL ORDER

From June 26-28, July 24-26, and July 31-August 2, 2018, pursuant to 49 U.S.C. § 60117, representatives 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 Targa Resources Operating, LLC (Targa or Respondent), including its Saddle Butte crude oil pipeline system in North Dakota. Targa is a subsidiary of Targa Resources Corporation,¹ which provides midstream services in North America.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated September 26, 2019, 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 Targa had violated 49 C.F.R. §§ 194.107(c)(1)(ix) and 195.264(b)(1)(i) and proposed assessing a civil penalty of \$22,800 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Targa Resources Corp. responded on Respondent's behalf by letter dated October 25, 2019 (Response).³ The company did not contest one of the allegations of violation and paid the proposed civil penalty of \$22,800. Targa contested the other alleged violation and accompanying proposed compliance actions. Respondent did not request a hearing and therefore has waived its right to one.

¹ Targa Resources Corporation, 10-K, 2019 Annual Report, filed February 20, 2020, *available at* <https://ir.targaresources.com/sec-filings/sec-filing/10-k/0001564590-20-005592> (last accessed on April 8, 2020).

² Targa Resources Corporation website, *available at* <https://www.targaresources.com/about-us/overview> (last accessed on April 8, 2020).

³ The Response also responded to a separate Warning Letter, CPF 3-2019-6004W, and Notice of Amendment, CPF 3-2019-6005M. Regarding CPF 3-2019-6004W, pursuant to § 190.205, an “operator may submit a response to a warning, but is not required to. An adjudication under this subpart to determine whether a violation occurred is not conducted for warnings.” Regarding CPF 3-2019-6005M, that matter was closed November 26, 2019.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Parts 194 and 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 194.107(c)(1)(ix), which states:

§ 194.107 General response plan requirements.

(a) ...

(c) Each response plan must include:

(1) A core plan consisting of-

(i) ...

(ix) Drill program-an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.

The Notice alleged that Respondent violated 49 C.F.R. § 194.107(c)(1)(ix) by failing to satisfy the requirements for a drill program which follow PREP Guidelines, Section 5.1, Drill: Qualified Individual (QI) Notification, or the equivalent. With regard to frequency, Section 5.1 specifies that QI notification drills must be conducted “as indicated by the response plan and, at a minimum, consistent with the triennial cycle (quarterly).” Specifically, Targa did not conduct QI notification drills each quarter during the three-year period from 2015 through 2017. A total of twelve quarterly notifications drills were not conducted. Targa provided no evidence that it followed a drill program that is equivalent to that set forth in PREP.

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. § 194.107(c)(1)(ix) by failing to satisfy the requirements for a drill program which follow PREP Guidelines, Section 5.1, Drill: QI Notification, or the equivalent.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.264(b)(1)(i), which states:

§ 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.

(a) A means must be provided for containing hazardous liquids in the event of spillage or failure of an aboveground breakout tank.

(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:

(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C), the installation of impoundment must be in accordance with the following section of NFPA-30 (2008 edition) (incorporated by reference per § 195.3);

(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2.

The Notice alleged that Respondent violated 49 C.F.R. § 195.264(b)(1)(i) by failing to satisfy the requirements of Section 22.11.2 of NFPA-30 (2008 edition) regarding impoundment and ground slope around the breakout tanks. Specifically, the Notice alleged that the control of drainage of Tanks 200 and 210 at the Johnson's Corner facility and Tank 3000 at the New Town facility was not accessible under fire conditions from outside the containment area as required by section 22.11.2.7.1 of NFPA-30 (2008 edition). Section 22.11.2.7.1 states “[c]ontrol of drainage shall be accessible under fire conditions from outside the dike.” Additionally, field inspection of Tank 210 at the Johnson's Corner facility identified an area that did not have a slope of not less than one percent away from the tank as required by section 22.11.2.1 of NFPA-30 (2008 edition). Section 22.11.2.1 states “[a] slope of not less than 1 percent away from the tanks shall be provided for at least 50 feet or to the dike base, whichever is less.”

In its Response, Targa contested the allegation of violation and requested that it be withdrawn. Targa stated that access to the valve controlling the drainage meets the “intent” of the requirement in NFPA-30. In reference to the access to control drainage from outside the containment requirement, Targa argued that NFPA-30 does not specify the means to access the valve controlling the drainage. It stated that at the Johnson's Corner facility, the drain valve is accessed via a platform built above the containment dike and accessed from outside the dike. Targa explained that “The current installation configuration avoids the very realistic scenario of filling the containment drainpipe up with water, freezing, and damaging the integrity of the drainpipe/drain valve due to ice formation.... personnel do not have to climb inside the dike (beneath the top of [the] containment wall) to access the valve... [and a] platform is provided for personnel to access the valve actuator without walking into the dike (beneath the top of [the] containment wall).”⁴

I find that Targa has not met the requirements § 195.264(b)(1)(i) by failing to follow NFPA-30, 22.11.2.7.1. Section 22.11.2.7.1 specifically focused on access “under fire conditions.” While Targa's set up with the valve controlling drainage can be accessed from outside the dike, its position is not conducive with access during fire conditions. The valve is placed on a platform that runs away from the top of the dike, with the valve positioned directly over the dike.⁵ If there was a fire in the dike, an operator would need to stand directly over the dike in order to access the valve. Likewise, Targa's explanation of its “current installation configuration” focuses on avoiding scenarios involving water, freezing, and ice formation- *not* fire conditions as required in NFPA-30.

Targa also contested the allegation that its containment was required to have a slope of not less than one percent away from the tank. Targa argued that because this requirement is part of Subpart D, Construction, requirements that address maintenance of the impoundment are inapplicable. Targa therefore concluded that there was no regulatory obligation to maintain a one percent slope after construction was completed.

Regarding the slope away from the tank, I find Targa in violation of § 195.264(b)(1)(i) by failing

⁴ Response, at 3.

⁵ See Pipeline Safety Violation Report (Violation Report), (September 26, 2019) (on file with PHMSA), at 19-12 (photographs of access platforms).

to meet the requirements in NFPA-30. In this case, the area surrounding the tank was observed during the inspection after excavation/construction work related to the tank.⁶ Specifically, Targa was engaged in work for the attachment of a conduit to the side of the concrete tank foundation during which the operator removed soil creating a slope towards the tank. Section 195.264 and other regulations in Subpart D prescribe minimum requirements not only for constructing new pipelines but “for relocating, replacing, or otherwise changing existing pipeline systems.” § 195.200. In order to remain in compliance with § 195.264(b)(1)(i), Targa was required to restore the slope away from the tank at the conclusion of this work.

Targa’s argument that it no longer had a regulatory obligation to comply with § 195.264(b)(1)(i) because it “does not address maintenance requirements of the impoundment nor are the requirements included in Subpart F Operations and Maintenance of Part 195” does not stand up under scrutiny. Targa was engaged in construction work, and was required to remediate the noncompliant condition created during that activity to ensure that the area around the tank had the required one percent slope.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.264(b)(1)(i) by failing to satisfy the requirements of Section 22.11.2 of NFPA-30 (2008 edition) regarding impoundment and ground slope around the breakout tanks.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁷ 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; 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 \$22,800 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$22,800 for Respondent’s violation of 49 C.F.R. § 194.107(c)(1)(ix), for failing to satisfy the requirements for a drill program which follow PREP Guidelines, Section 5.1, Drill: QI Notification, or the equivalent. Targa neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess

⁶ See Violation Report, at 22 (photograph of the area around the tank without a one percent slope).

⁷ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

Respondent a civil penalty of **\$22,800** for violation of 49 C.F.R. § 194.107(c)(1)(ix), which amount was paid in full by wire transfer on November 15, 2019.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for the violation of 49 C.F.R. § 195.264(b)(1)(i). 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.

With regard to the violation of § 195.264(b)(1)(i) (Item 2), Respondent argued the compliance terms should be withdrawn because no violation was committed. I have rejected this argument above. Therefore, I find that Targa must complete the proposed compliance actions.

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 § 195.264(b)(1)(i) (**Item 2**), Respondent must:
 - a. Make alterations to the drainage control system so it can be accessed during fire conditions;
 - b. Alter the slope away from the tank as required by § 195.264(b)(1)(i); and
 - c. Complete the above items within 90 days after the receipt of the Final Order.

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.

It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays

the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in 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.

April 24, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued