

DEC 29 2011

Mr. Eric Amundsen
Vice President of Technical Services
Sea Robin Pipeline Company
5444 Westheimer Road
Houston, TX 77056-5306

Re: CPF No. 4-2011-2001

Dear Mr. Amundsen:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$10,300, and specifies actions that need to be taken by Sea Robin Pipeline Company 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, Southwest 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. R.M. Seeley, Director, Southwest Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Stephen M. Moore, Counsel, Sea Robin Pipeline Company, LLC.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [71791000164203057799]

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

_____)		
In the Matter of)		
)		
Sea Robin Pipeline Company,)		CPF No. 4-2011-2001
)		
Respondent.)		
_____)		

FINAL ORDER

In September and December 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 on-site pipeline safety inspections of the facilities and records of Sea Robin Pipeline Company (Sea Robin or Respondent) in Erath, Louisiana. Sea Robin operates 377.2 miles of pipeline, 2 compressor stations, and 5 offshore platforms.

As a result of these inspections, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated March 21, 2011, 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 Sea Robin committed violations of 49 C.F.R. Part 192 and assessing a civil penalty of \$19,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Sea Robin responded to the Notice by letter dated April 22, 2011 (Response), contesting two of the allegations and requesting a hearing. An informal hearing was held on August 23, 2011, in Houston, Texas with an attorney from the Office of Chief Counsel, PHMSA, presiding. At the hearing, Sea Robin was represented by counsel. After the hearing, Respondent provided a transcript of the proceeding, a Post-Hearing Statement (Brief), and additional exhibits for the record, by letter dated September 23, 2011.¹

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.605, which states in relevant part:

¹ Some documents were forwarded electronically.

§ 192.605 Procedural manual for operations, maintenance and emergencies.

- (a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged that a PHMSA inspector requested that Sea Robin personnel perform a covered task, “Commission and Maintain Stationary Gas Detection Systems,” as part of the inspection process. Sea Robin personnel failed to verify that the gas detector low and high alarm trips were properly functioning. When questioned, company personnel mistakenly stated that performance of Step 3 of this covered task would result in a station shut down.² 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. § 192.605(a) by failing to follow its manual of written procedures when performing maintenance of the gas detection system.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605, which states in relevant part:

§ 192.605 Procedural manual for operations, maintenance and emergencies.

- (a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its Standard Operating Procedures (SOP) for addressing atmospheric corrosion on certain offshore platforms. SOP D.44 “Atmospheric Corrosion Inspection,” Section 7.4 Reporting requires documentation of corrosion and its Appendix B classifies and provides the action item for each

² A subsequent review of the maintenance records showed this is not the case ...” Pipeline Safety Violation Report (Violation Report), (March 22, 2011) (on file with PHMSA) at 3-4.

instance of noted corrosion. From 2008 through 2010, OPS asserted that Sea Robin personnel repeatedly noted “Case 6 classifications” of corrosion on the South Marsh 33 and East Cameron 195 platforms. According to Appendix B, coating rehabilitation is required for Case 6 classifications. OPS argued in the Notice that Sea Robin failed to follow its SOP, which requires remediation of Case 6 classifications prior to the next inspection cycle.

At the hearing, the Respondent presented evidence that it followed its SOP for addressing atmospheric corrosion on the offshore platforms cited in the Notice. Sea Robin argued that neither its operating procedures nor any regulation require remediation of corrosion on offshore platforms prior to the next scheduled inspection. According to the Respondent, while Sea Robin assigned a level 6³ to the instances of corrosion cited in the Notice, such corrosion is not indicative of an integrity threat to the pipeline and therefore remediation was properly scheduled, per its SOP. The Respondent also argued that corrosion is a constant concern, given the geographic location and attendant weather conditions of offshore platforms in this area. Sea Robin reasoned that, given these circumstances, some corrosion is expected and not necessarily indicative of an integrity threat requiring repair according to a specific timetable. Since it adhered to the required yearly inspection intervals and determined that no immediate repair condition was presented, the Respondent argued that it acted in accordance with its SOP and therefore did not violate either its procedures or §192.605(a).

Sea Robin uses Panhandle Energy’s SOP Volume D – Corrosion (SOP), which provides the procedure for an “Atmospheric Corrosion Inspection.” Several parts of this procedure are instructive and reproduced below.

Section 7.3 “Evaluation of Inspection Results” states, in relevant part:

Step	Activity
1	RANK coating condition as follows. <ul style="list-style-type: none"> • Good (0-5%): Coating intact with no visible deterioration or damage • Fair (6-20%): Coating essentially intact, but with some visible deterioration • Poor (21-99%): Extensive visible deterioration of coating • Bare (100%): No coating present.
2	DETERMINE whether the service life of the existing coating system can be extended through spot repair or maintenance painting.
3	DEVELOP recommendations for coating rehabilitation using the guidelines listed in <i>Appendix B Classification of Coating Inspections</i> .
4	DETERMINE whether the existing coating system will provide adequate protection to limit corrosion activity to a uniform light surface oxide <i>before the next Compliance Inspection</i> .

NOTE:

1. With the exception of soil/air interfaces and offshore risers, the presence of uniform light surface oxides should not affect the safe operation of the pipeline system.
2. Any corrosion found on an offshore riser or at a soil/air interface requires remedial action.

³ Panhandle Standard Operating Procedure (SOP), Appendix B, “Classification of Coating Inspection” rates corrosion from Case 1 (least) to Case 7 (most).

Appendix B: Classification of Coating Inspection

CASE	DESCRIPTION	ACTION
Case 1	Coating system intact . . .	No action required.
Case 4	Degradation of topcoat, but majority of primer and/or intermediate coat intact. No indications of pitting. Economic analysis indicates maintenance coating is not cost effective. Experience in Area indicates that remaining coating and/or surface oxide will prevent pitting <i>until next inspection period.</i>	No action required. Existing coating system must be removed prior to recoating.
Case 6	Degradation of topcoat, but majority of primer and/or immediate coat intact. Indication of pitting. Economic analysis indicates maintenance coating is cost effective.	Coating rehabilitation required. Remove and replace existing coating system in areas where coating degradation is severe. Apply maintenance coating over intact portions of existing coating.

Sea Robin argues that its atmospheric corrosion procedures provide the company with the flexibility to defer a Case 6 classification until an integrity threat to the pipeline is identified or the corrosion is such that the company is not adequately maintaining the pipeline.⁴

However, the plain language of this SOP, read in its entirety, indicates otherwise. Section 7.3, Step 4, specifically directs the inspector to determine whether the coating system will provide sufficient protection until the next inspection cycle. Furthermore, Appendix B provides a straightforward classification system that progresses from Case 1 to Case 7. For Case 1 through Case 4 scenarios, “No action [is] required.” In the description of Case 4, where no action is required, the inspector is required to find that the “remaining coating and/or surface oxide will prevent pitting until [the] next inspection period.” In other words, for situations that are classified as Case 1 - 4, the inspector must find the coating either “will perform adequately until [the] next inspection period [or] will prevent pitting until [the] next inspection period.”⁵ Notably, Case 6 is absent of any such contemplation of the next inspection period. I find that this is because “Appendix B: Classification of Coating Inspection,” read in conjunction with SOP “Volume D – Corrosion – Atmospheric Corrosion Inspection” requires that rehabilitation be addressed prior to the next inspection period.

Given Sea Robin’s position that its SOP does not require remediation prior to the next inspection cycle, the Respondent also questioned in its post-hearing submission if any “authority [exists] for the position . . . that the remediation at issue in Item 2 was required to be completed within an inspection interval.” In a prior case, Panhandle, whose SOP is used by Sea Robin and is at issue in this case, acknowledged that remediation of noted action items should occur before the next

⁴ “HEARING OFFICER: So is it your position that you could – Say we have the same situation. You say that it’s a Case 6. As long – in your view, as long as you monitor the situation to the extent that you’re sure that the integrity of the system has not been called into question, you could delay [these] remedial action as far into the future as you deem appropriate? MR. RAU: And I hear where you’re going and I would say that . . . there’s another requirement in the code that says we must maintain the coating system . . . So I think the issue is: Is more than a year appropriate or not? . . . We disagree with that. We think that a year or less is not appropriate.”

⁵ SOP, Appendix B.

inspection cycle. In an August 6, 2008⁶ letter, Panhandle Energy readily admitted that “PHMSA has issued guidance on maximum intervals for corrosion control system remediation. That guidance states that remediation should be initiated *prior to the next inspection period.*”⁷ The next inspection period is, and has always been, the target for the remediation of issues noted during a previous inspection.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to remediate corrosion, according to its SOP.

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

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.807, which states in relevant part:

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) . . .

(b) Records supporting an individual’s current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

The Notice alleged that Respondent violated 49 C.F.R. § 192.807(b) by failing to maintain current qualification records for covered task 7T0032E – Annual Valve Maintenance and Trouble Report (Emergency Valves). During the inspection, Sea Robin could not produce the OQ records for “Contractor OQ,” who partially performed the annual maintenance task for three valves on May 22, 2010.

At the hearing, the Respondent stated that a Sea Robin employee, Ronald Eversberg, performed maintenance of the mainline valves cited in the Notice for failure to maintain OQ records for an individual performing a covered task. PHMSA asserted that Sea Robin’s maintenance records indicated that the annual maintenance task for certain valves was partially completed by “Contractor OQ.”

⁶ *In the Matter of Panhandle Eastern Pipeline Co. (Panhandle Pipeline)*, CPF 3-2008-1002, (Jun. 17, 2011) (available at www.phmsa.dot.gov/pipeline/enforcement).

⁷ While not dispositive of the issue presented in this case, a number of final orders reaffirm that remediation should occur prior to the beginning of the next inspection cycle. “Adverse conditions should be corrected as soon as possible, and no later than the next inspection cycle.” *In the Matter of Cenex, Inc. (Cenex)*, C.P.F. No. 5-1998-4514 (Oct. 20, 1998) (available at www.phmsa.dot.gov/pipeline/enforcement). “The failure to take appropriate action to correct the low readings in time for the next inspection cycle reflects a serious lapse in Respondent’s ability to react appropriately to matters affecting the safe operation of its pipeline system.” *In the Matter of Natural Gas Pipeline Company of America (Natural Gas Pipeline)*, C.P.F. 2-1997-3103 (Aug. 18, 1997) (available at www.phmsa.dot.gov/pipeline/enforcement).

Sea Robin stated that, due to administrative error, “Contractor OQ” was inserted in the place of Ronald Eversberg, who witnessed the maintenance of the valves in question.⁸ At the hearing, Respondent provided an updated form showing that Ronald Eversberg witnessed the maintenance of these valves.⁹ Accordingly, based upon a review of all of the evidence, I order that Item 3 be withdrawn.

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 civil penalty of \$10,300 for the violation of § 192.605(a). I withdrew the allegation of violation for Item 3; therefore, no civil penalty is appropriate.

Item 2: The Notice proposed a civil penalty of \$10,300 for Respondent’s violation of 49 C.F.R. § 192.605(a), for failing to prepare and follow its SOP for atmospheric corrosion inspections. The Respondent argued that the penalty should be withdrawn due to the fact that it did not violate its SOP by failing to remediate atmospheric corrosion prior to the next inspection cycle. Given that I rejected this argument, there do not appear to be any factors that favor mitigation of the proposed penalty for this item.

The Respondent did not make a good-faith effort to comply with the regulation. Furthermore, although Respondent’s omission did not result in any damage to the pipeline system or the environment, Respondent’s failure to promptly remediate could have undermined pipeline safety. Respondent’s ability to pay is not in question.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,300 for violation of 49 C.F.R. § 192.605.

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

⁸ “But as far as the maintenance of the valve itself, outside of operation, we can say that Ron [Eversberg] performed all of those activities. Transcript, 54.

⁹ Compliance Work Order, 1-3.

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 \$10,300 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

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. § 192.605. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas 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 § 192.605 (**Item 1**), Respondent must review its procedures and re-train and re-qualify those individuals responsible for the testing and maintenance of the Stationary Gas Detection Systems to ensure the procedures will be followed within 30 days following receipt of this Final Order.
2. With respect to the violation of § 192.605 (**Item 2**), Respondent must remediate the areas noted on the South Marsh 33 and East Cameron 195 platforms, as indicated on the relevant Atmospheric Reports, within 30 days following receipt of this Final Order.
3. Proof of compliance must be provided to the Regional Director, Southwest Region, within 15 days of the completion of Items 1 and 2.

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 \$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 has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other 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