

DECEMBER 21, 2012

Mr. Gregory L. Ebel
President and Chief Executive Officer
Spectra Energy Corporation
5400 Westheimer Court
Houston, TX 77056

Re: CPF No. 4-2012-1009

Dear Mr. Ebel:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$134,500, and specifies actions that need to be taken by Texas Eastern Transmission, LP, to comply with the pipeline safety regulations. This letter acknowledges receipt of payment of the full penalty amount, by wire transfer dated June 28, 2012. When the terms of the compliance order have been 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. Rodrick Seeley, Director, Southwest Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. J. Andrew Drake, P.E., Vice President, Asset Integrity, Texas Eastern Transmission,
LP

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)	
)	
Texas Eastern Transmission, LP,)	CPF No. 4-2012-1009
)	
Respondent.)	
)	

FINAL ORDER

From February 7 to December 15, 2011, 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 Texas Eastern Transmission, LP (Texas Eastern or Respondent), a subsidiary of Spectra Energy Corporation, in Texas, Louisiana, Arkansas, and the Gulf of Mexico. These facilities are part of the Texas Eastern Transmission pipeline, which transports natural gas through a 9,200-mile pipeline system extending from Texas and the Gulf Coast to the northeastern United States.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated May 29, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Texas Eastern had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$134,500 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action but warned the operator to correct the probable violation or face possible enforcement action.

Texas Eastern responded to the Notice by letter dated June 28, 2012 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$134,500, as provided in 49 C.F.R. § 190.227. The company also provided information concerning the corrective actions it planned to take within 30 days of the issuance of this Final Order. Payment of the penalty serves to close these items with prejudice to the Respondent.

¹ <http://www.spectraenergy.com/Operations/North-America-Transmission/Assets/Texas-Eastern-Transmission/> (last accessed on November 30, 2012).

FINDINGS OF VIOLATION

In its Response, Texas Eastern did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.475(b), which states:

§ 192.475 Internal corrosion control: General.

(a) . . .

(b) Whenever any pipe is removed from a pipeline for any reason, the internal surface must be inspected for evidence of corrosion. If internal corrosion is found—

(1) The adjacent pipe must be investigated to determine the extent of internal corrosion;

(2) Replacement must be made to the extent required by the applicable paragraphs of §§ 192.485, 192.487, or 192.489; and

(3) Steps must be taken to minimize the internal corrosion.

The Notice alleged that Respondent violated 49 C.F.R. § 192.475(b) by failing, in two instances, to inspect the internal surface of removed sections of pipe for evidence of corrosion.

Specifically, the Notice alleged that inspection reports indicated Respondent failed to inspect the internal surface of certain pipe sections for evidence of corrosion, even though they had been repaired by welding in two full circumference sections of pipe.

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. § 192.475(b) by failing, in two instances, to inspect the internal surface of removed sections of pipe for evidence of corrosion.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 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 own written procedures implementing the substantive requirements of 49 C.F.R. § 192.481(b).²

² 49 C.F.R. § 192.481(b) states: “During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.”

Specifically, the Notice alleged that Texas Eastern failed to follow its own *Standard Operating Procedure (SOP) 2-5000, Atmospheric Pipe Inspection*, which states that inspection ports should be located at low points on the piping where water is more likely to accumulate in the annular space between the outside of the pipe and the insulation.³ The Notice alleged that the insulated section of piping at the Atlanta compressor station had only one two-inch capped area at the 12 o'clock position on the pipe with which to examine the pipe's coating, in violation of the company's own *SOP 2-5000*.

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 own written procedure, *SOP 2-5000, Atmospheric Pipe Inspection*.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), as quoted above, by failing to follow its own written procedures implementing the substantive requirements of 49 C.F.R. § 192.745(a).⁴ Specifically, the Notice alleged that Texas Eastern failed to follow its own *SOP 5-5010, Valve Inspection and Maintenance*, which required annual valve inspections, but at least at intervals not exceeding 15 months, for valves that might be required during an emergency. Under the company's procedure, such inspections had to include the full or partial operation of each valve.⁵ The Notice alleged that between 2008 and 2011, multiple valves at Texas Eastern's facilities in Texas, Louisiana, and Arkansas had not been partially operated as part of the annual inspections.

Respondent did not contest this allegation of violation, but stated in its Response that the violation resulted from the use of a single database used to document the maintenance of all valves, both emergency and non-emergency. While *SOP 5-5010* required partial operation only for valves that might be required during an emergency, the Texas Eastern database failed to separately identify non-emergency valves that did not require partial operation during inspections.

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 own procedure, *SOP 5-5010, Valve Inspection and Maintenance*.

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,

³ Violation Report at Exhibit D.

⁴ 49 C.F.R. § 192.745(a) states: "Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year."

⁵ Violation Report at Exhibit E.

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 \$134,500 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$29,600 for Respondent's violation of 49 C.F.R. § 192.475(b), for failing, in two instances, to inspect the internal surface of removed pipe for evidence of corrosion. The removal of a section of pipe provides a valuable opportunity to visually inspect pipe for signs of internal corrosion. By failing to inspect removed pipe, an operator can easily miss visible signs of corrosion that could result in a pipeline failure. Texas Eastern paid the proposed penalty for the alleged violation, which serves to close this Item with prejudice. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$29,600 for violation of 49 C.F.R. § 192.475(b).

Item 4: The Notice proposed a civil penalty of \$28,700 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its own procedure, *SOP 2-5000, Atmospheric Pipe Inspection*. An operator that fails to follow its own procedures for atmospheric corrosion inspections increases the risk of preventable pipeline accidents. Texas Eastern paid the proposed penalty for the alleged violation, which serves to close this Item with prejudice. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$28,700 for violation of 49 C.F.R. § 192.605(a).

Item 5: The Notice proposed a civil penalty of \$76,200 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its own procedure, *SOP 5-5010, Valve Inspection and Maintenance*. Respondent indicated in its Response that since the time of the inspection it had appropriately identified emergency valves within its database, and would revise *SOP 5-5010* to more accurately reflect the requirements of 49 C.F.R. § 192.745(a). Respondent, however, conceded that at the time of the inspection *SOP 5-5010* required inspection and partial operation of all valves, both emergency and non-emergency, and that it had not complied with this procedure. An operator that fails to follow its own procedures for valve inspections increases the risk of preventable pipeline accidents. Texas Eastern paid the proposed penalty for the alleged violation, which serves to close this Item with prejudice. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$76,200 for violation of 49 C.F.R. § 192.605(a).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$134,500**.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 4 in the Notice for violation of 49 C.F.R. § 192.605(a). 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(a) (**Item 4**), Respondent must:
 - a. Review *SOP 2-5000, Atmospheric Pipe Inspection*, to ensure that the locations of inspection ports are appropriate for monitoring the coating under thermal insulation.
 - b. Survey all applicable insulated segments of its pipeline facilities throughout its pipeline system to ensure they are protected from atmospheric corrosion under thermal insulation. Based on this review and survey, develop and follow a plan, process, and procedure to ensure that the inspection, testing, and monitoring of pipe coating under thermal insulation are performed in a manner consistent with 49 C.F.R. § 195.481(b).
2. Within 30 days following receipt of this Final Order, Respondent must submit to the Region Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner Drive, Suite 1110, Houston, Texas 77074, its plans, procedures, and records that demonstrate compliance with 49 C.F.R. § 195.481(b) and this compliance order. The Regional Director will determine the adequacy of Respondent's submission and indicate any required changes.
3. Respondent is requested to maintain documentation of the safety improvement and compliance costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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 physical changes to the 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 \$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.

WARNING ITEMS

With respect to Items 1, 3, 6, and 7, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.475(a) (**Item 1**) — Respondent’s alleged failure to investigate the effect of corrosive gas on its pipeline and take steps to minimize internal corrosion. Specifically, the Notice alleged that Texas Eastern failed to identify and monitor dead-end sections of pipe at the Iowa Facility in the Lake Charles, Louisiana, unit area;

49 C.F.R. § 192.479(a) (**Item 3**) — Respondent’s alleged failure to clean and coat portions of its pipeline exposed to atmospheric corrosion at two locations in the Lake Charles, Louisiana area. Specifically, the Notice alleged that at Mainline Block Valve MP 49.64 and at the Vermillion 265 offshore platform, PHMSA investigators observed disbonded coating, atmospheric corrosion, and severe pitting in some locations;

49 C.F.R. § 192.705(a) (**Item 6**) — Respondent’s alleged failure to maintain an effective patrol program to observe surface conditions on and adjacent to the transmission pipeline right-of-way. Specifically, the Notice alleged that Texas Eastern failed to remove overgrowth and debris on its Longview, Texas rights-of-way at MP 229 and 306.57 on Line 11, and MP 23, 24.24, and 44 on Line 13, which hampered patrolling of these areas; and

49 C.F.R. § 192.707(a) (**Item 7**) — Respondent’s alleged failure to place and maintain line markers as close as practical over each buried transmission line and main. Specifically, the Notice alleged that in the Little Rock, Arkansas area, Texas Eastern did not place markers as close as practical at MP 85.12, downstream from a valve in an open field area, and at MP 339.09, upstream and downstream from mainline valve 1-496. The Notice further alleged that, in the Portland south unit in Texas, Texas Eastern did not place markers as close as practical at MP 23.25, on the rear fence at Measuring Station 73258/59, where the line enters a fenced area.

Texas Eastern presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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