

FEBRUARY 28, 2014

Mr. Michael C. Jennings
Chief Executive Officer
Holly Energy Partners-Operating, L.P.
Suite 1300
2828 N. Harwood
Dallas, Texas 75201

Re: CPF No. 5-2012-6006

Dear Mr. Jennings:

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 Holly Energy Partners-Operating, L.P. to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Western 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. Chris Hoidal, Director, Western Region, OPS
Mr. Mark Cunningham, Vice President, Holly Energy Partners-Operating L.P.

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)	
)	
Holly Energy Partners-Operating, L.P.,)	CPF No. 5-2012-6006
)	
Respondent.)	
_____)	

FINAL ORDER

In July and August of 2010, 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 four pipelines located in Salt Lake City, Utah. Holly Energy Partners – Operating L.P. (HEP or Respondent) operates the lines which are registered with PHMSA under OPID 32011. The four pipelines transport refined petroleum products from the Woods Crossing Refinery to various destinations and are identified as: the 10-inch diesel line to Pioneer; the 8-inch gasoline line to Chevron; the 12-inch products line to UNEV; and the 8-inch gasoline line to Pioneer.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated March 13, 2012, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that HEP had violated 49 C.F.R. §§ 195.428 and 195.501 and proposed ordering Respondent to take certain measures to correct the alleged violations.

HEP responded to the Notice by letter dated April 11, 2012, as supplemented by letter dated November 6, 2012 (Response). The company contested the allegations, offered additional information in response to the Notice, and did not demonstrate that any steps had been taken to complete any of the actions in the proposed compliance order. Respondent did not request a hearing and therefore has waived its right to one.

¹ See Pipeline Safety Violation Report (Violation Report), (March 13, 2012) (on file with PHMSA), at 1.

FINDINGS OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overflow protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 ½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to properly inspect and test certain pipeline overpressure devices once a year. Specifically, the Notice alleged that HEP failed to test eleven specified valves on 44 different occasions as more fully described in the Notice. Respondent contested this allegation of violation arguing that: (1) the pumps associated with these pipelines could not overpressure the pipelines; and (2) overpressure protection of the pipelines downstream of the pumps was the responsibility of the refinery company, Holly Frontier Corporation (HFC), not HEP.

With respect to HEP's argument that the pumps associated with the pipelines could not overpressure the pipelines, HEP provided schematics of the pumps and pipelines which OPS reviewed. First, OPS determined that gasoline could flow in reverse to the 10-inch Pioneer diesel line depending on valve alignment resulting in over pressuring the line. Secondly, HEP did not include any data showing the output pressure from any of the pumps. Third, the diagram incorrectly listed the maximum operating pressure (MOP) for the 8-inch Chevron and 10-inch Pioneer lines and the pump curves appeared to date from the 1950's, 60's, and 70's, yet the records provided to OPS by HEP did not include any information on any pump modifications. In the absence of complete, accurate, and up-to-date information of this kind, Respondent could not have made a reliable conclusion that the pumps could not over pressure the pipelines.

Even if a pump cannot overpressure a pipeline, operators are required to provide protection against thermal overpressure events. However, HEP did not identify thermal pressure relief valves necessary for blocked pipeline segments in the records provided and failed to provide diagrams that would include at a minimum any thermal pressure relief devices or any pressure control equipment for pipe segments that can be isolated by valves. Finally, HEP failed to establish that thermal pressure increases are always within the MOP in the absence of a means to control thermal pressure increases.

With respect to HEP's argument that the pipeline overpressure protection equipment downstream of the pumps was the responsibility of HFC, not HEP, HEP contended that due to a private agreement between the companies, the only equipment belonging to HEP that it would be responsible for under § 195.428 is the rupture rod associated with the 10-inch Pioneer Line.

Specifically, HEP stated that its ownership of the Chevron 8-inch products pipeline begins “at the connecting flanges to the inlet of the launching facility” and there are no remote operative valves under HEP control upstream of the ownership break point. For the Pioneer 10-inch Products Pipeline, HEP stated that its ownership also begins “at the connecting flanges to the inlet of the launching facility” and there are no remote operative valves under HEP’s control upstream of the ownership break point. HEP provides a portion of this agreement which references the 8-inch Chevron Line and the 10-inch Pioneer Line, but not the 12-inch UNEV Line or the 8-inch Pioneer Line.

A private agreement dividing various responsibilities for a pipeline between two related companies, however, is irrelevant for determining whether Part 195 requirements apply to that pipeline. By statute, the pipeline safety regulations apply to “any and all owners and operators of pipeline facilities.” *See* 49 U.S.C. § 60102(a)(2)(A). Moreover, there is no question that the pipe sections involved transport product from the refinery to other locations and that the pressure control equipment referenced by OPS in the Notice affects pipeline operations.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428 by failing to timely inspect and test all the overpressure devices once a year on its pipelines covered by this requirement.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.501, which states:

§ 195.501 Scope.

(a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.

(b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:

- (1) Is performed on a pipeline facility;
- (2) Is an operations or maintenance task;
- (3) Is performed as a requirement of this part; and
- (4) Affects the operation or integrity of the pipeline.

The Notice alleged that Respondent violated 49 C.F.R. § 195.501 by failing to have all individuals that performed covered tasks in operating the four pipelines meet the minimum qualification requirements. Specifically, the Notice alleged that on July 15 and August 2010, and on April 13, 2011, HEP allowed HFC control room personnel to perform covered OQ (operator qualification) tasks involving HEP’s pipelines without the proper Part 195 qualifications.

In its Response, HEP states that the control room personnel “do not see both ends of the HEP pipelines, they are not comparing the flow rate out of the line and they do not take emergency calls from the public. Also, since the pumps cannot over pressure the pipelines thus the starting and stopping of the pumps does not affect the integrity of the pipeline.” HEP’s argument amounts to the proposition that because control room personnel operating the HEP pipelines also operate refinery equipment, together with its argument in Item 1 above that the operation of the pumps and pipelines does not present any over pressure threat, the control room personnel are

not required to be qualified under the pipeline OQ program.

As discussed in Item 1 above, Respondent's arguments that the pipelines were not covered by Part 195 were not persuasive. The fact that a person operating a pipeline also has other responsibilities does not negate the pipeline qualification requirements. Moreover, HEP's statements are contrary to the information that was originally obtained from Mark Willey, a HFC supervisor of personnel. During an initial interview with Mr. Willey, HFC's personnel admitted performing OQ tasks on the pipeline without the proper training. *See* Violation Report, at 10. HEP has presented no evidence that refutes the statements made by Mr. Willey. The performance of OQ tasks without the proper training and qualification is a violation of §195.501.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.501 by allowing individuals that were not OQ certified to perform various OQ tasks.

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 and 2 in the Notice for violations of 49 C.F.R. §§ 195.428, and 195.501, 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 § 195.428 (**Item 1**), within 60 days following receipt of this Order, Respondent must identify all pressure control equipment that could affect the integrity of its pipelines, and inspect and test them per § 195.428
2. With respect to the violation of § 195.501 (**Item 2**), within 60 days following receipt of this Order, Respondent must qualify personnel performing pipeline control room covered tasks per HEP's operator qualification plan to ensure they meet all requirements of 49 C.F.R. Part 195, Subpart G.
3. Upon completion of Items 1 and 2, provide documentation demonstrating completion to Chris Hoidal, Director, Western Region, PHMSA.
4. It is requested (not mandated) that HEP 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 facilities.

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.

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. 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.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued