

JUN 17 2010

Mr. Bruce A. Smith
Chairman
Tesoro Refining and Marketing Company
19100 Ridgewood Parkway
San Antonio, TX 78259

Re: CPF No. 5-2007-5027

Dear Mr. Smith:

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 Tesoro Refining and Marketing Company 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: Chris Hoidal, Director, Western Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0043 9566]

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

In the Matter of	)	
	)	
	)	
Tesoro Refining and Marketing	)	CPF No. 5-2007-5027
Company,	)	
	)	
Respondent.	)	
	)	

FINAL ORDER

From February 26 through March 2, 2007, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the Integrity Management Program (IMP) of Tesoro Refining and Marketing Company (Tesoro or Respondent) in Denver, Colorado. Tesoro is an independent refiner and marketer of petroleum products. It operates seven refineries in the western United States with a combined capacity of approximately 665,000 barrels per day and has a retail-marketing system that includes over 880 branded retail stations.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated June 6, 2007, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed various violations of 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Tesoro responded to the Notice by letter dated August 3, 2007 (Response). Respondent did not contest the allegations of violation but provided information concerning the corrective actions it had taken. Tesoro did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Tesoro did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1A: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(c)(1)(i), which states:

¹ <http://www.tsocorp.com>

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(c) *What must be in the baseline assessment plan?*

(1) An operator must include each of the following elements in its written baseline assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

(A) Internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves;

(B) Pressure test conducted in accordance with subpart E of this part;

(C) External corrosion direct assessment in accordance with § 195.588; or

(D) Other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify the Office of Pipeline Safety (OPS) 90 days before conducting the assessment, by sending a notice to the address or facsimile number specified in paragraph (m) of this section.

(ii) A schedule for completing the integrity assessment;

(iii) An explanation of the assessment methods selected and evaluation of risk factors considered in establishing the assessment schedule.

(2) An operator must document, prior to implementing any changes to the plan, any modification to the plan, and reasons for the modification.

The Notice alleged that Tesoro violated 49 C.F.R. § 195.452(c)(1)(i) by failing to comply with its written procedures for determining the long-seam susceptibility of its low frequency electric resistance welded (LF-ERW) line pipe. In particular, the Notice alleged that Tesoro had identified pipeline segments with LF-ERW line pipe in its High Plains and Mountain Region systems, but that it had not completed a long-seam evaluation process of that line pipe in certain cases. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Tesoro violated 49 C.F.R. § 195.452(c)(1)(i) by failing to follow its written procedures for evaluating the long-seam susceptibility of the LF-ERW line pipe on its High Plains and Mountain Region systems.

Item 1B: The Notice alleged that Tesoro also violated 49 C.F.R. § 195.452(c)(1)(i) by failing to perform a stress corrosion cracking (SCC) examination of its pipelines. In particular, the Notice alleged that Respondent had identified pipelines in areas susceptible to SCC, and that Tesoro had to evaluate those pipelines in accordance with the recommendations of ADB-03-05, “Stress Corrosion Cracking Threat to Gas and Hazardous Liquid Pipelines.” Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Tesoro violated 49 C.F.R. § 195.452 by failing to perform a SCC examination of its pipelines.

Item 2A: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(h) *What actions must an operator take to address integrity issues?*

(1) *General requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with § 195.422 when making a repair.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1) by failing to take prompt action to address all anomalous conditions discovered through its integrity assessment or information analysis. In particular, the Notice alleged that Tesoro did not include some of the repair records from the inline inspection (ILI) assessment of its 1.5-mile pipeline between Sand Island and the Shell Terminal in the documentation provided to the OPS inspection team. The Notice further alleged that Respondent had to reevaluate all of the undocumented repair anomalies on that particular pipeline segment. Tesoro 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. § 195.452 by failing to take prompt action to address all anomalous conditions discovered through its integrity assessment or information analysis.

Item 2B: The Notice alleged that Respondent also violated 49 C.F.R. § 195.452(h)(1) by failing to take prompt action to address another anomalous condition discovered through its integrity assessment or information analysis. In particular, the Notice alleged that a dig site repair report indicated that SCC was present near a girth weld. The Notice further alleged that Tesoro had failed to implement a SCC susceptibility program and to perform further evaluations of the dig site and any other indications that could signify the presence of SCC. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Tesoro violated 49 C.F.R. § 195.452(h)(1) by failing to properly implement a SCC susceptibility program on its pipeline.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(5), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program....

(5) A continual process of assessment and evaluation to maintain a pipeline's integrity (see paragraph (j) of this section)

(j) *What is a continual process of evaluation and assessment to maintain a pipeline's integrity?*

(1)

(5) *Assessment methods.* An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

(i) Internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves;

(ii) Pressure test conducted in accordance with subpart E of this part;

(iii) External corrosion direct assessment in accordance with § 195.588; or

(iv) Other technology that the operator demonstrates can provide an equivalent understanding of the condition of the line pipe. An operator choosing this option must notify OPS 90 days before conducting the assessment, by sending a notice to the address or facsimile number specified in paragraph (m) of this section.

The Notice alleged that Tesoro violated 49 C.F.R. § 195.452(j)(5) by failing to use an adequate method for assessing the integrity of its line pipe. In particular, the Notice alleged that Respondent's ILI results and a dig report showed visual evidence of SCC on its Alaska pipeline, and that Tesoro should have reviewed its dig reports to determine if other areas exhibited those same characteristics. The Notice further alleged that if such areas did exist, then Respondent had an obligation to reevaluate its method for assessing the integrity of its line pipe. Tesoro 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. § 195.452(j)(5) by failing to use an adequate method for assessing the integrity of its line pipe.

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 1A, 1B, 2A, 2B, and 3 for violations of 49 C.F.R. §§ 195.452(c)(1)(i), (h)(1), and (j)(5), 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 violations of § 195.452(c)(1)(i) (**Item 1A and 1B**), Respondent must perform a long-seam susceptibility of the LF-ERW line pipe in its High Plains and Mountain Region pipeline systems. Respondent must also evaluate those pipelines in accordance with recommendations of ADB-03-05, "Stress Corrosion Cracking Threat to Gas and Hazardous Liquid Pipelines."
2. With respect to the violations of § 195.452(h)(1) (**Item 2A and 2B**), Respondent must reevaluate all of the undocumented repair anomalies on the 1.5-mile pipeline segment between Sand Island and the Shell Terminal to insure the integrity of that pipeline segment.

Respondent must also submit a reevaluation schedule for all of those undocumented repair anomalies 45 days prior to the investigation or reevaluation of those anomalies. Respondent must implement an SCC susceptibility program and perform further evaluations of Dig 29 and other indications of that could signify the presence of SCC on the Tesoro Alaska Pipeline.

3. With respect to the violation of § 195.452(j)(5) (**Item 3**), Respondent must reevaluate its method for assessing the integrity of its line pipe if SCC indications are found and make all necessary modification to its IMP.

4. Respondent must complete each of these actions within 60 days of the issuance of this Final Order and submit required documentation and procedures to Chris Hoidal, Director, Western Region, PHMSA, 12300 West Dakota Avenue, Suite 110, Lakewood, CO 80228.

5. Respondent shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, PHMSA. Costs shall be reported in two categories: (1) total costs associated with the preparation of or revision of plans, procedures, studies and analyses and (2) total costs associated with the 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 \$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. A copy of the petition should also be sent to: Assistant Chief Counsel for Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. The petition must be received no later than 20 days after service of this Final Order upon the Respondent and must 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 receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued