



US Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street S.W.
Washington, D.C. 20590

APR - 4 2003

Mr. Pat Havener
Vice President, Refining
Wyoming Refining Company
740 West Main
Post Office Box 820
Newcastle, Wyoming 82701

RE: CPF No. 58506

Dear Mr. Havener:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and requires certain corrective action. When the terms of the compliance order are completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

Wyoming Refining Company,

Respondent.

CPF No. 58506

FINAL ORDER

On September 17, 1997, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities and records in Newcastle, Wyoming. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated March 31, 1998, 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 violated 49 C.F.R. §§ 195.238, 195.402, 195.404, 195.410, 195.416, 199.7 and 199.202 and proposed that Respondent take certain measures to correct the alleged violations.

By letter dated April 29, 1998, Respondent requested and was granted an extension until June 1, 1998 to respond. Respondent responded to the Notice by letter dated May 28, 1998 (Response). Respondent did not contest the allegations, but provided information concerning the corrective actions it was planning to take. Respondent did not request a hearing; consequently, Respondent waived its right to one.

FINDINGS OF VIOLATION

Uncontested violations. Respondent did not contest the alleged violations of 49 C.F.R. §§ 195.238, 195.402, 195.404, 195.410, 195.416, 199.7 and 199.202. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Parts 195 and 199, as more fully described in the Notice:

49 C.F.R. §195.402(a) – failing to have a manual of written procedures for conducting normal operations and maintenance activities and for handling abnormal operations and emergencies;

49 C.F.R. §195.404(a) – failing to maintain current maps and records of its pipeline systems; (b) – failing to maintain for at least 3 years daily operating records; (c) – failing to maintain records of repairs and required tests and inspections for the periods specified;

49 C.F.R. §195.410(a) – failing to have a sufficient number of line markers to accurately indicate the pipeline’s location; (c) – failing to provide line marking at above ground valves;

49 C.F.R. §195.416(a) – failing to install and maintain sufficient cathodic protection test stations, or failing to use another method, such as an annual close interval survey, to determine whether the cathodic protection is adequate;

49 C.F.R. §195.416(i) – failing to maintain the coating, and therefore failing to maintain the protection against atmospheric corrosion, on each pipeline system component exposed to the atmosphere. The Notice alleged a violation of §195.238(a), failing to provide pipeline system components with an external protective coating designed to mitigate corrosion of buried or submerged components. The Notice, however, described components that were aboveground and not buried or submerged as required by §195.238(a). Because the facts alleged in the Notice described aboveground pipe, and because Respondent did not dispute that such pipe was inadequately coated, I find there is a violation of 195.416(i), rather than a violation of §195.238(a);

49 C.F.R. §199.7 – failing to maintain and follow a written anti-drug plan that conforms to the requirements of Part 199 and the DOT procedures;

49 C.F.R. §199.202 – failing to maintain and follow a written alcohol misuse plan that conforms to the requirements of subpart B of Part 199 and the DOT procedures;

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 the alleged violations. In its Response, Respondent wrote that it intended to address the items listed in the proposed order. Since the Notice was issued, the Western Region, OPS, has inspected Respondent’s facility on two separate occasions: October 16 - 19, 2000, and August 12 - 16, 2002. According to the Region, those inspections showed that Respondent has corrected most of the items listed in the proposed compliance order. The inspections found that Respondent now has: a formal record keeping program and a map of its pipeline system identifying the information required by §195.404(a); a sufficient number of cathodic protection test stations on its pipeline system to determine whether the protection is adequate; adequate external coating on exposed portions of Respondent’s pipeline; a sufficient number of line markers to accurately indicate the location of its pipeline, and line marking at above ground valves in areas that are accessible to the public.

The inspections further found that some of the items listed in the Proposed Compliance Order still need to be addressed. Those items are included in the below Compliance Order. Under 49 U.S.C. § 60118, 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 hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must:

1. Include in its procedural manual for operations, maintenance and emergencies detailed procedures for:
 - a. discovering and correcting within a reasonable time conditions that could adversely affect the safe operation of the pipeline, or, for conditions presenting an immediate hazard to persons or property, ceasing operation of the affected part of the system until the unsafe condition is corrected. These procedures are required by § 195.401(b);
 - b. analyzing pipeline accidents to determine their causes. These procedures are required by § 195.402(c)(5);
 - c. determining, in accordance with § 195.402(c)(4) and (6), which pipeline facilities are located in areas that would require your immediate response to prevent hazards to the public if the facilities failed or malfunctioned, and then minimizing the potential for both those hazards and the possibility of recurrence of accidents analyzed under § 195.402(c)(5);
 - d. establishing a continuing educational program, that meets the requirements of § 195.440, to enable the public, appropriate government organizations and persons engaged in excavation-related activities to recognize a hazardous liquid or a carbon dioxide pipeline emergency and to report it to you or the fire, police, or other appropriate public officials;
 - e. reporting safety-related conditions that meet the requirements of § 195.55;
 - f. filing safety-related condition reports that meet the requirements of § 195.56;
 - g. instructing personnel who perform operation and maintenance activities to recognize conditions that may constitute safety-related conditions subject to the reporting requirements of § 195.55;
 - h. reevaluating unprotected buried or submerged pipe and cathodically protecting the pipe, in areas in which active corrosion is found, to meet the requirements of § 195.573(b).
2. Develop a written anti-drug plan that meets the requirements of § 199.7 and follow that plan.
3. Develop a written alcohol misuse prevention plan that meets the requirements of § 199.202 and follow that plan.
4. Submit a copy of the procedures in item 1, and a copy of the written plans in items 2 and 3, to the Director, Western Region, Office of Pipeline Safety, for his review and approval, within 60 days of issuance of this order.

5. The Director, Western Region, OPS, may grant an extension of time for completion of any of the actions required herein upon receipt of a written request from the Respondent.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.


Stacey Gerard
Associate Administrator
for Pipeline Safety

APR - 4 2003

Date Issued