



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

MAY 16 2005

Mr. Lee Edwards
President
BP Pipelines, NA
801 Warrenville Road
Lisle, IL 60532

RE: CPF No. 5-2003-5031

Dear Mr. Edwards:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$15,500. The Final Order also finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations, and that you have addressed the inadequacies in your procedures that were cited in the Notice of Amendment. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid, 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,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, OPS Western Region

CERTIFIED MAIL RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590**

In the Matter of

BP PIPELINES, NA,

Respondent.

CPF No. 5-2003-5031

FINAL ORDER

During March 10-14 and March 31 - April 4, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), Western, Central, Southern, and Southwest Regions and the Washington Utilities and Transportation Commission (WA-UTC) conducted an Integrity Management (IM) Inspection of Respondent's integrity management program in Lisle, Illinois. In addition, a supplemental site-specific IM implementation inspection was conducted on September 2-5, 2003 by representatives of the Western Region, OPS and the WA-UTC in Renton, WA. As a result of the inspection, the Director, Western Region, OPS, issued to Respondent, by letter dated December 15, 2003, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (Notice)¹. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$15,500 for the alleged violations and proposed that Respondent take certain measures to correct the alleged violations. The Notice also proposed, in accordance with 49 C.F.R. §190.237, that Respondent amend its procedures for integrity management.

Respondent requested an extension of time to respond to the Notice. On January 8, 2004, Respondent was granted an extension until February 5, 2004 to submit a response to the Notice. Respondent responded to the Notice by letter dated February 4, 2004 (Response). Respondent did not contest the allegations of violation but offered information to explain the allegations and provided information concerning the corrective actions it has taken.

¹This case, however, is no longer before RSPA for decision. Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) (delegating the pipeline safety functions to the Administrator, PHMSA).

FINDINGS OF VIOLATION

Uncontested

Respondent did not contest the alleged violations of §195.452 in the Notice. Accordingly, I find that Respondent violated 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. §195.452(b)(4-6) and (f) (1) – failure to implement a pipeline integrity management program that identifies all pipeline segments that could affect HCAs, that failed to update HCA locations and that failed to provide adequate specificity and detail to ensure repeatability, as well as complete and accurate results.

49 C.F.R. §195.452(c)(1)(i) – failure to include in its baseline assessment plan potential seam failure susceptibilities, as there are no technical justifications that pre-1970 low frequency electric resistance-welded and lap-welded pipe are not susceptible to seam defects.

49 C.F.R. §195.452(h)(2) and (4)(i-iii) – failure to have procedures that include discovery requirements and failed to schedule remediation within 180 days of discovery of the condition, as the period between the completion of the ILI tool runs, and Respondent’s discovery and completion of repairs were longer than the prescribed interval.

49 C.F.R. §195.452(h)(4)(i) – failure to have procedures that include an evaluation and remediation schedule which requires an immediate response to notification of immediate repair conditions and an immediate reduction in the operating pressure.

49 C.F.R. §195.452(h)(2) and (3) – failure to have contract language that requires ILI reports be received from the vendor in a time frame that will permit the discovery of anomalies within 180 days; failure to have procedures with requirements for all tool vendors, as well as specifications for each tool that has been used for assessments in the past and that may be utilized for assessments in the future; failure to have procedures with objective criteria for defining variances to assign responsibility for the resolution of a list of anticipated circumstances, such as incomplete data; failure to have adequate guidelines for the ILI vendor “Imminent Threat Report” that addresses two immediate repair conditions, pipe strength and a dent on top of the pipe that indicated metal loss, cracking or a stress riser; failure to have adequate procedures identifying action to be taken if discovery cannot occur within 180 days of completion of an integrity assessment, including OPS notification; and failure to have adequate hydrostatic testing procedures to address actions specific to integrity assessments, such as performing a root cause analysis of test failures, metallurgical examination of test failures, evaluation/analysis of multiple test failures (especially pressure reversals), and spike test procedures to assess potential seam failure vulnerabilities of LFERW and lap-weld pipe.

49 C.F.R. §195.452(e)(1), (j) (3) and (g)(1-4) – failure to have sufficient detail in its information analysis process and procedures to define methods, acquire data, and link results with decisions for effective risk analysis and risk-based decision making. There is also a failure to include a key element, the participation of field organizations in the evaluation of risks, review of input data, and review risk analysis results.

49 C.F.R. §195.452(f)(3) – failure to have an IMP that includes all programs with IMP elements to ensure facility risks to HCAs are evaluated and addressed.

49 C.F.R. §195.452(i)(1), (3) and (4) – failure to have fully developed IM procedures, as Respondent’s methods for evaluation of preventive and mitigative measures, evaluation of pipeline leak detections systems, and evaluation of the need for additional EFRDs are only partially developed.

49 C.F.R. §195.452(f)(3) and (6) – failure to have fully developed IMP, as Respondent’s plan fails to evaluate preventive and mitigative measures of facilities.

49 C.F.R. §195.452(l)(1)(i and ii) - failure to fully develop IMP documentation requirements, as Respondent lacks sufficient detail and specificity to: 1) clearly articulate the necessary steps to perform each program element and ensure repeatability; 2) describe the key input information sources; 3) define the process output products, their documentation, including justification for decisions, and document retention requirements, and 4) specify organizational responsibilities for performing key process steps.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a 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.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require. The Notice proposed a total civil penalty of \$15,500.

The Notice proposed a civil penalty of \$3,500 for **Item 3a**, \$6,000 for **Item 3b**, \$3,500 for **Item 3c** and \$2,500 for **Item 3d**, as Respondent failed to timely complete an evaluation and remediation after discovery of anomalies. An inspection of Respondent's ILI results and associated repair records revealed instances in which the interval between the completion of ILI tool runs and Respondent's discovery and completion of repairs exceed the required interval, as required by 49 C.F.R. §195.452(h)(2) and (4)(i-iii). An inspection of the ILI results and associated repair records revealed the following:

Colon Junction to River Rouge Segment- the period of time between the assessment and the discovery of three immediate repair conditions exceed the required interval by 71 days. A pressure reduction was taken 60 days after discovery of the immediate repair conditions. The repairs were not completed until 66 days after discovery and 317 days after completion of the baseline assessment.

Toledo to West Toledo Segment- the period of time between the assessment and the discovery of four (4) immediate repair conditions, eight (8) 60 day conditions, and five (5) 180 day conditions exceed the 180 day deadline by 84 days. A pressure reduction was taken 2 days after discovery. The repairs were completed between 10 to 24 days after the declared discovery date.

8-inch Xylene Line - the discovery of nineteen (19) 180 day conditions was declared on May 23, 2002. As of March 31, 2003, three hundred twelve (312) days after discovery, seventeen (17) of the conditions had not been repaired.

Bromley to Tennessee Avenue Segment- the assessment was completed on April 22, 2002 and the discovery of one (1) 60-day condition did not occur until February 3, 2003, two hundred eighty seven (287) days after the baseline assessment.

In response, Respondent stated that although it is not contesting the civil penalty, it believes that a civil penalty is not warranted and requested reconsideration. Respondent explained that it was impracticable to receive a quality product from its ILI vendor within the time frame specified by the rule and that the pipeline industry and ILI vendors were experiencing a steep learning curve related to rule requirements. Respondent further explained, in the case of the 8-inch Xylene Line, it misinterpreted the rules applying to assessments completed before the deadline to declare baselines.

49 C.F.R. §190.11 provides for informal guidance and interpretive assistance about compliance with pipeline safety regulations, 49 CFR parts 190-199. If Respondent needs clarification, information on, and advice about compliance with pipeline safety regulations, then Respondent should take advantage of §190.11 to resolve any questions or concerns regarding compliance. Such resources along with OPS' related statements and advisory bulletins provide ample warning or notice of required conduct, identify the standards with which OPS expects it to conform and enhance the transparency of the regulatory process. Respondent has not provided any evidence that would justify mitigation of the proposed civil penalty.

Respondent did not contest the violations or the civil penalty. The interval between the completion of ILLI tool runs and Respondent's discovery and completion of repairs exceeded the required interval. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$15,500, for violation of 49 C.F.R. §195.452(h)(2) and (4)(i-iii).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$15,500 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 United States District Court.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with regard to Item 2, violation of 49 C.F.R. § 195.452(c)(1)(i). Respondent submitted information to show that it has addressed all items in the Proposed Compliance Order. Respondent revised its baseline assessment plan to address potential seam failure susceptibilities and the susceptibilities of pre-1970 low frequency electric resistance-welded and lap-welded pipe to seam defects to meet the minimum requirements of 49 C.F.R. §195.452(c)(1)(i). Respondent has completed all of the required corrective actions in the proposed compliance order. The Director, Western Region, OPS has accepted these measures as adequately fulfilling the requirements of the regulations and no further action is needed with respect to a compliance order.

AMENDMENT OF PROCEDURES

Items 1,4,5,6,7,8,9 and 11 of the Notice alleged inadequacies in Respondent's Integrity Management Program procedures and proposed to require amendment of Respondent's procedures to comply with the requirements of 49 C.F.R. Part 195.


In its response, Respondent submitted copies of its amended procedures, which the Director, Western Region, OPS reviewed. Accordingly, based on the results of this review, I find that Respondent's original integrity management program procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. No need exists to issue an order directing amendment.

WARNING ITEM

The Notice did not propose a civil penalty or corrective action for Items 10 and 12 but warned Respondent that it should take appropriate corrective action to correct the items. Respondent presented information in its response showing that it has addressed the cited items. Respondent is again warned that if OPS finds a violation in a subsequent inspection, enforcement action will be taken.

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 submit a 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. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.

for


Stacey Gerard
Associate Administrator
for Pipeline Safety

MAY 16 2005

Date Issued