



*AOPL Business Conference
Newport Beach, California
September 18, 2013*

STRATEGY ROUNDTABLE SESSION

Topic 3
RESTART PLANS

Historically, PHMSA typically requested a written ReStart Plan (RSP) only if a Corrective Action Order (CAO) was issued. That appears to be changing, as a number of operators have recently been asked to prepare a RSP even when no CAO or other enforcement action issues. This has created the unusual result that some operators may be approved to restart the day after an incident (even if they have received a CAO that declares the line to be “hazardous”), while another operator who receives no CAO is told to prepare a RSP before it is allowed to restart.

This issue is made more troubling by the fact that PHMSA increasingly requests all RSPs to include both inline inspection (ILI) and hydrotest (similar to what is requested as corrective action under a CAO).

DISCUSSION BY PANELISTS BOB HOGFOSS AND CATHERINE LITTLE:

There is no express legal requirement in either the Pipeline Safety Act or PHMSA regulations for an operator to prepare a written ReStart Plan (RSP) after an incident. Historically, PHMSA (OPS) would simply work directly with an operator to review causation and test data, and then approve restart on a case by case basis, typically with several conditions.

Sometime over the past decade, with no regulation or guidance, PHMSA began asking for written RSPs as a matter of course after incidents. Initially, these requests varied both situationally and by Region. In just the past few years, however, it has become common for all CAOs to require a written RSP, and very

recently we have seen PHMSA request RSPs even when no enforcement action has been commenced.

A related development is that the Agency is increasingly making RSP requests generic. In addition to a root cause failure analysis (RCFA) and metallurgical testing, virtually all RSP requests now call for *both* ILI and hydrotest of “affected pipeline segments” (which is an issue in itself). They also typically call for graduated pressure increases over time, and then some period of operation at reduced pressure (typically 80% of MOP). In addition, the Agency has recently begun requesting operators to conduct re-start spike hydrotests at pressures above SMYS, in contrast to the more common 120% of MOP.

PHMSA relies on its general inspection and information gathering authorities to make these RSP demands, but that authority has not yet been challenged or tested. Operators and regulators alike want to ensure that a line is safe before undertaking restart, and for that reason all parties have a shared interest in understanding what caused an incident before a restart is initiated. That means pursuing RCFA and metallurgical testing on an expedited basis, then sharing those results with PHMSA and engaging in discussion.

Once the operator is comfortable with the testing and causation examination, it should communicate that to the Agency. If PHMSA requests a written RSP at that point, you can suggest the alternative approach of preparing instead a Corrective Action Plan to be pursued after restart. As noted, it is ironic that PHMSA has allowed pipelines subject to a CAO to restart quickly, only to be held to lengthy Corrective Action Plan requirements. Notably, the Agency has allowed ILI and hydrotest activities to be conducted after restart, when done as part of corrective action instead of a RSP.

In most instances these issues can be worked out informally with the Region. If not, you need the Regional Director to put in writing his or her directives. You can appeal that by letter/email to the Associate Administrator. If no enforcement action has been issued at that point, you can still attempt to request a hearing on any negative response from the Associate Administrator.

DISCUSSION TOPICS WITH AUDIENCE

1. Frequency of requests by Agency for written restart plans when not associated with a CAOs.
2. Different ways to resolve or work through those requests.
3. Best practices for conducting restarts after incidents.
4. Consideration of whether industry should prompt further discussion with PHMSA on restart plants.

For more information on these topics and the discussion that occurred at the session, feel free to contact
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