



U S Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Ave. S.E.  
Washington DC 20590

JUL 19 2007

**VIA CERTIFIED MAIL AND FACSIMILE TO: (918) 493-5117**

Mr. Tim Felt  
President and CEO  
Explorer Pipeline Company  
P.O. Box 2650  
Tulsa, OK 74101-2650

Re: CPF No. 4-2007-5021H

Dear Mr. Felt:

Enclosed is a Corrective Action Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It requires you to take certain corrective actions on the Explorer Pipeline System. Service is being made by certified mail and facsimile. Your receipt of this Corrective Action Order constitutes service of that document under 49 C.F.R. § 190.5. The terms and conditions of this Corrective Action Order are effective upon receipt.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosures

cc: R. M. Seeley, Director, Southwest Region, PHMSA

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

\_\_\_\_\_ )  
**In the Matter of** )

**Explorer Pipeline Company,** )

**Respondent** )  
\_\_\_\_\_ )

**CPF No. 4-2007-5021H**

**CORRECTIVE ACTION ORDER**

**Purpose and Background**

This Corrective Action Order is being issued, under authority of 49 U.S.C. § 60112, to require Explorer Pipeline Company (“Respondent”) to take necessary corrective action to protect the public, property, and the environment from potential hazards associated with a failure involving the Explorer Pipeline System.

On July 14, 2007, a failure occurred on the Explorer Pipeline System near Huntsville, Texas resulting in the release of jet fuel. The cause of the failure has not yet been determined. Pursuant to 49 U.S.C. § 60117, the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) has initiated an investigation of the accident.

**Preliminary Findings**

- At approximately 2:35 p.m. CDT on July 14, 2007, Respondent’s Explorer Pipeline System, as hereinafter defined, experienced a failure near Huntsville (Walker County), Texas, resulting in the release of jet fuel. The failure occurred on the 28-inch pipeline segment that runs from Port Arthur, Texas to Glenpool, Oklahoma. The failure site is Mile Post (“MP”) 151.76, which is approximately 0.25 miles downstream (north) of Respondent’s Huntsville Station. The failure site is located in a rural area, approximately 0.75 miles from the intersection of Highway 980 and Ashworth Road.
- Respondent estimates that approximately 7,000 barrels (“bbls”) of jet fuel were released as a result of the failure. Respondent originally reported the volume of the release to be 4,500 bbls, based on 50% of a worst-case drain-down scenario. No injuries, fatalities, explosions, or fires were reported as a result of the failure. Local emergency services evacuated eight homes, one of which remains evacuated. A 4-foot by 7-foot crater in the soil was observed

surrounding the failure site and soil in the immediate area was saturated with jet fuel. Jet fuel migrated to Turkey Creek, which is approximately 0.25 miles downgrade from the failure site. Approximately four miles of the creek were affected. Turkey Creek flows into Trinity River, but signs of jet fuel migration into the river have not been observed.

- Following the failure, Respondent initiated an emergency shutdown of valves at the Huntsville Station and dispatched crews to manually shut down both adjacent upstream and downstream block valves. An emergency contractor is reclaiming jet fuel using vacuum trucks. Containment booms have been placed on Turkey Creek. The pipeline system resumed operations on July 18, 2007.
- Respondent has excavated approximately 240 feet along the pipeline to allow for removal and repair. Respondent removed a 40-foot section of pipe containing the failure site and replaced it with a 28-inch, 0.500 wall thickness, pipe that was hydrotested onsite on July 16, 2007.
- Respondent's Explorer Pipeline System consists of a transmission pipeline system 1,411 miles long that transports refined petroleum products, including gasoline, diesel fuel, and jet fuel, from Port Arthur, Texas, to Hammond, Indiana. The pipeline runs through Louisiana, Texas, Oklahoma, Missouri, Illinois, and Indiana. The main line pipe size is 28 inches in diameter from Port Arthur, Texas, to Glenpool, Oklahoma (the "28-inch Pipeline System") and 24 inches in diameter from Glenpool to Hammond, Indiana, near Chicago. The July 14, 2007 failure occurred on the 28-inch Pipeline System. The Explorer Pipeline System is owned and operated by Respondent.
- The 28-inch Pipeline System traverses High Consequence Areas ("HCAs"), interstates, public roads, and waterways. The section of the pipeline containing the failure site is not in an HCA, but could affect an HCA. An HCA was not affected by the failure.
- The cause of the failure has not yet been determined. A preliminary visual examination indicates an approximately 63-inch long and 9-inch wide failure along the longitudinal seam of the pipe at the 1:00 position.
- The pipeline section on which the failure occurred is 28-inch nominal diameter, 0.344-inch wall thickness ("WT"), Grade X52, double-submerged arc welded ("DSAW") pipe. It has a coal tar coating and is cathodically protected. The pipe was installed in 1971. Respondent could not initially confirm the manufacturer of the pipe, reporting at first that the pipe had been manufactured by Republic. Respondent later reported that the pipe had been manufactured by Stelco. Respondent could not confirm where this type of pipe (Stelco 0.344-inch WT) had been installed elsewhere on the 28-inch Pipeline System.
- The established maximum operating pressure of the pipeline section on which the failure occurred is 920 pounds per square inch gauge ("psig"), as established by design pressure and hydrostatic testing in 1971. The actual operating pressure at the time of the accident was 840, psig as measured at the Huntsville Pump Station. Respondent estimates that operating pressure at the failure site at the time of the accident was 839 psig.

- Respondent performed an inline inspection in 2001 through 2002 using a crack detection tool. A preliminary review of the crack detection tool report shows an anomaly in the long seam at the failure location. The anomaly had been classified by the tool vendor as “not decidable.” A comment about the anomaly in the feature list stated “possibly weld anomaly.” The anomaly was not excavated. There were four additional anomalies classified as “not decidable” in the crack detection tool report. Two were identified as being located in the body of the pipe rather than the seam weld. The other two were excavated and the results of those excavations are under review.
- Since 1997, Respondent’s Explorer Pipeline System has experienced 18 reportable accidents and approximately 70 additional failures that did not meet reporting thresholds (49 C.F.R. § 195.50). On September 28, 2004, the pipeline system experienced a failure near Holdenville (Hughes County), Oklahoma, which resulted in the release of 3,405 bbls of high-sulfur diesel fuel and estimated property damage of \$3,614,439. PHMSA issued Corrective Action Order CPF No. 4-2004-5028H on October 1, 2004 in response to that failure. The cause of the failure has been attributed to stress corrosion cracking. On March 9, 2000, the pipeline system experience another failure near Greenville (Hunt County), Texas, which resulted in the release of 13,436 bbls of gasoline and estimated property damage of \$35,000,000, including traces of gasoline additive MTBE in nearby Lake Tawakoni. The March 9, 2000 failure occurred on a longitudinal seam weld and has been attributed to cracking.

#### **Determination of Necessity for Corrective Action Order and Right to Hearing**

Section 60112 of Title 49, United States Code, provides for the issuance of a Corrective Action Order, after reasonable notice and the opportunity for a hearing, requiring corrective action, which may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The basis for making the determination that a pipeline facility is hazardous, requiring corrective action, is set forth both in the above-referenced statute and 49 C.F.R. § 190.233, a copy of which is enclosed.

Section 60112 of Title 49, and the regulations promulgated thereunder, provide for the issuance of a Corrective Action Order without prior opportunity for notice and hearing upon a finding that failure to issue the Order expeditiously will likely result in serious harm to life, property, or the environment. In such cases, an opportunity for a hearing will be provided as soon as practicable after the issuance of the Order.

After evaluating the foregoing preliminary findings of fact, I find that the continued operation of Respondent’s Explorer Pipeline System from Port Arthur, Texas, to Glenpool, Oklahoma (the “28-inch Pipeline System”) without corrective measures would be hazardous to life, property, and the environment. Additionally, after considering the age of the pipe, the proximity of the pipeline to HCAs, public roadways, and other waterways, the nature of the product transported, the pressure required for transporting such product, the uncertainty surrounding the pipe’s manufacturer and location of that pipe elsewhere on the system, and the ongoing investigation to determine the cause of the failure, I find that a failure to expeditiously issue this Order requiring

immediate corrective action would likely result in serious harm to life, property, or the environment.

Accordingly, this Corrective Action Order mandating immediate corrective action is issued without prior notice and opportunity for a hearing. The terms and conditions of this Order are effective upon receipt.

Within 10 days of receipt of this Order, Respondent may request a hearing, to be held as soon as practicable, by notifying the Associate Administrator for Pipeline Safety in writing, delivered personally, by mail or by facsimile at (202) 366-4566. The hearing will be held in Houston, Texas or Washington, D.C. on a date that is mutually convenient to PHMSA and Respondent.

After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken. In that event, Respondent will be notified of any additional measures required and amendment of this Order will be considered. To the extent consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

### **Required Corrective Action**

Pursuant to 49 U.S.C. § 60112, I hereby order Explorer Pipeline Company to immediately take the following corrective actions with respect to its Explorer Pipeline System:

1. *Operating pressure restriction.* The operating pressure on the Explorer Pipeline System between Port Arthur, Texas, and Glenpool, Oklahoma (the “28-inch Pipeline System”) is not to exceed 80 percent of the actual operating pressure in effect immediately prior to the July 14, 2007 failure. Specifically, the discharge pressure at each pump station on the 28-inch Pipeline System shall not exceed 80% of the actual operating pressure in effect immediately prior to the July 14, 2007 failure.
2. The pressure restriction set forth in Item 1 will remain in effect until written approval to increase the pressure or return the pipeline to its pre-failure operating pressure is obtained from the Director as set forth in Item 11. If the results of any action undertaken pursuant to this Order dictate a reduction in the allowable operating pressure below that imposed by this Order, Respondent must further reduce the operating pressure accordingly.
3. *Testing and failure analysis* Within 30 days of receipt of this Order, complete mechanical and metallurgical testing and failure analysis of the failed pipe, including analysis of soil samples and foreign materials. The testing and analysis shall be completed as follows:
  - (A) When handling and transporting the failed pipe section and other evidence from the failure site, document the chain-of-custody;
  - (B) Obtain the Director’s prior approval of the mechanical and metallurgical testing protocols, including approval of the testing laboratory;

- (C) Prior to commencing the mechanical and metallurgical testing, provide the Director with the scheduled date, time, and location of the testing to allow an PHMSA representative to witness the testing; and
  - (D) Ensure that the testing laboratory distributes all resulting reports, whether draft or final, to the Director at the same time as they are made available to Respondent.
4. *Return-to-service plan* Within 45 days of receipt of this Order, develop and submit to the Director for prior approval a written return-to-service plan that includes corrective measures. The return-to-service plan must fully address all known or suspected factors that caused or contributed to the failure and must include, as applicable:
- (A) The integration of the information developed from the actions required by Item 3 with relevant pipeline system information, including: identification of the manufacturers and types of pipe along the entire 28-inch Pipeline System, previous failure investigations, leak history, repair records, corrosion control/cathodic protection records, in-line inspections, hydrostatic testing, changes in pressure cycling, and other relevant operating data for the purpose of performing a comprehensive analysis of the available information associated with the factors that caused or contributed to the failure;
  - (B) The performance of field testing, inspections, and evaluations to determine whether and to what extent the conditions associated with the failure, or any other integrity threatening conditions, are present elsewhere on the 28-inch Pipeline System. If seam failure is determined to have caused or contributed to the pipeline failure, field testing must include. (1) hydrostatic testing, including a “spike” test and detailed metallurgical testing of any hydrostatic test failures that occur; or (2) testing by an alternative technology approved by the Director. Include a detailed description of the criteria to be used for the evaluation and prioritization of any integrity threats/anomalies that are identified. Make the results of the inspections, field excavations, and evaluations available to PHMSA or its representative;
  - (C) The performance of repairs or other corrective measures that fully remediate the condition(s) associated with the failure everywhere along the 28-inch Pipeline System where such conditions, or any other integrity-threatening conditions, are identified through the evaluation process. Include a detailed description of the repair criteria and method(s) to be used in undertaking any repairs or other remedial actions; and
  - (D) A proposed schedule for completion of the actions required by paragraphs (A) through (C) of this Item.
5. The return-to-service plan shall be submitted to the Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 1110, Houston, TX 77074. The plan shall be revised as necessary to incorporate new information obtained during the failure investigation and remedial

activities undertaken pursuant to this Order. Submit any such plan revisions to the Director for prior approval. The Director may approve plan elements incrementally.

6. Implement the return-to-service plan as it is approved, including any revisions to the plan.
7. *Integrity management program assessment.* Conduct an assessment of your implementation of the Integrity Management Program (“IMP”) required by 49 C.F.R. § 195.452. The assessment shall evaluate the effectiveness of your IMP and analyze the shortcomings of that program in preventing the July 14, 2007 pipeline accident. The assessment must identify IMP elements in need of improvement (e.g., improvements to the baseline assessment plan, information analysis, criteria for remedial actions to address integrity issues, assessment and evaluation methods, risk analysis, preventive and mitigative measures to protect HCAs, and employee qualifications to review integrity assessment results and information analyses) to prevent future accidents and occurrences and eliminate threats to pipeline integrity. Based on this assessment, develop a process and schedule for implementation of changes to all IMP elements that require improvement, as well as any resulting changes to your operations and maintenance procedures. The process and schedule for implementation of changes to your IMP and operations and maintenance procedures shall be submitted for approval to the Director no later than 60 days from receipt of this Order. Implement all changes to your IMP and operations and maintenance procedures as they are approved.
8. *Reporting procedures* Within 30 days of receipt of this Order, submit for review and approval by the Director, your procedure(s) for investigating and reporting pipeline accidents that occur on the pipeline system. The procedures shall include provisions to ensure that sufficient information about an accident is gathered to determine the cause of the failure and that reporting to PHMSA includes sufficient detail about the cause.
9. *Quarterly reports* Submit quarterly reports to the Director that: (1) include available data and results of the testing and evaluations required by this Order; and (2) describe the progress of the repairs or other remedial actions being undertaken. The first quarterly report shall be due October 1, 2007.
10. *Documentation of costs.* Maintain documentation of the costs associated with implementation of this Corrective Action Order. Include in each quarterly report submitted pursuant to Item 9, the to-date total costs associated with: (1) preparation and revision of procedures, studies and analyses; (2) physical changes to pipeline infrastructure, including repairs, replacements and other modifications; and (3) spill remediation costs.
11. *Alleviation of pressure restriction* The Director may allow the removal or modification of the pressure restriction set forth in Item 1 upon a written request from Respondent demonstrating that the hazard has been abated and that restoring the 28-inch Pipeline System, or portion thereof, to its pre-failure operating pressure is justified based on a reliable engineering analysis showing that the pressure increase is safe considering all known defects, anomalies and operating parameters of the pipeline.

With respect to each submission that under this Order requires the approval of the Director, the Director may: (a) approve, in whole or part, the submission; (b) approve the submission on specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove in whole or in part, the submission, directing that Respondent modify the submission, or (e) any combination of the above. In the event of approval, approval upon conditions, or modification by the Director, Respondent shall proceed to take all action required by the submission as approved or modified by the Director. In the event that the Director disapproves all or any portion of the submission, Respondent shall correct all deficiencies within the time specified by the Director, and resubmit it for approval. In the event that a resubmitted item is disapproved in whole or in part, the Director may again require Respondent to correct the deficiencies in accordance with the foregoing procedure, and/or the Director may otherwise proceed to enforce the terms of this Order.

The Director may grant an extension of time for compliance with any of the terms of this Order upon a written request timely submitted demonstrating good cause for an extension.

The actions required by this Corrective Action Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Part 195, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 *et seq* , or under any other provision of Federal or state law.

Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

Failure to comply with this Order may result in the assessment of administrative civil penalties of up to \$100,000 per violation per day pursuant to 49 U.S.C. § 60122, and in referral to the Attorney General for imposition of civil judicial penalties or other appropriate relief in United States District Court pursuant to 49 U.S.C. § 60120.

The terms and conditions of this Corrective Action Order are effective upon receipt.

JUL 19 2016

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Jeffrey D. Wiese  
Acting Associate Administrator  
for Pipeline Safety

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Date Issued

## § 190.231

(2) Subsequently damages a pipeline facility and knows or has reason to know of the damage but fails to promptly report the damage to the operator and to the appropriate authorities, or

(3) Subsequently damages a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product, shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 5 years, or both

(f) No person shall be subject to criminal penalties under paragraph (a) of this section for violation of any regulation and the violation of any order issued under § 190.217, § 190.219 or § 190.229 if both violations are based on the same act

[45 FR 20413, Mar 27 1980, as amended by Amdt 190-2, 54 FR 32344, Aug 7, 1989, Amdt 190 4, 56 FR 63770, Dec 5 1991, Amdt 190-6, 61 FR 18515, Apr 26, 1996, 70 FR 11138, Mar 8, 2005]

### § 190.231 Referral for prosecution.

If an employee of the Pipeline and Hazardous Materials Safety Administration becomes aware of any actual or possible activity subject to criminal penalties under § 190.229, the employee reports it to the Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. The Chief Counsel refers the report to OPS for investigation. Upon completion of the investigation and if appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt 190 6, 61 FR 18515, Apr 26 1996, as amended at 70 FR 11137, Mar 8 2005]

#### SPECIFIC RELIEF

### § 190.233 Corrective action orders.

(a) Except as provided by paragraph (b) of this section, if the Associate Administrator, OPS finds, after reasonable notice and opportunity for hearing in accord with paragraph (c) of this section and § 190.211(a), a particular pipeline facility to be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue an order pursuant to this section re-

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quiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(b) The Associate Administrator, OPS may waive the requirement for notice and opportunity for hearing under paragraph (a) of this section before issuing an order pursuant to this section when the Associate Administrator, OPS determines that the failure to do so would result in the likelihood of serious harm to life, property, or the environment. However, the Associate Administrator, OPS shall provide an opportunity for a hearing as soon as is practicable after the issuance of a compliance order. The provisions of paragraph (c)(2) of this section apply to an owner or operator's decision to exercise its opportunity for a hearing. The purpose of such a post-order hearing is for the Associate Administrator, OPS to determine whether a compliance order should remain in effect or be rescinded or suspended in accord with paragraph (g) of this section.

#### (c) Notice and hearing

(1) Written notice that OPS intends to issue an order under this section shall be served upon the owner or operator of an alleged hazardous facility in accordance with § 190.5. The notice shall allege the existence of a hazardous facility and state the facts and circumstances supporting the issuance of a corrective action order. The notice shall also provide the owner or operator with the opportunity for a hearing and shall identify a time and location where a hearing may be held.

(2) An owner or operator that elects to exercise its opportunity for a hearing under this section must notify the Associate Administrator, OPS of that election in writing within 10 days of service of the notice provided under paragraph (c)(1) of this section, or under paragraph (b) of this section when applicable. The absence of such written notification waives an owner or operator's opportunity for a hearing and allows the Associate Administrator, OPS to issue a corrective action order in accordance with paragraphs (d) through (h) of this section.

(3) A hearing under this section shall be presided over by an attorney from the Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, acting as Presiding Official, and conducted without strict adherence to formal rules of evidence. The Presiding Official presents the allegations contained in the notice issued under this section. The owner or operator of the alleged hazardous facility may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether or not a corrective action order should be issued.

(4) Within 48 hours after conclusion of a hearing under this section, the Presiding Official shall submit a recommendation to the Associate Administrator, OPS as to whether or not a corrective action order is required. Upon receipt of the recommendation, the Associate Administrator, OPS shall proceed in accordance with paragraphs (d) through (h) of this section. If the Associate Administrator, OPS finds the facility is or would be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue a corrective action order in accordance with this section. If the Associate Administrator, OPS does not find the facility is or would be hazardous to life, property, or the environment, the Associate Administrator shall withdraw the allegation of the existence of a hazardous facility contained in the notice, and promptly notify the owner or operator in writing by service as prescribed in § 190.5.

(d) The Associate Administrator, OPS may find a pipeline facility to be hazardous under paragraph (a) of this section.

(1) If under the facts and circumstances the Associate Administrator, OPS determines the particular facility is hazardous to life, property, or the environment, or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which the Associate Administrator, OPS determines is hazardous to life, property, or the environment unless the operator involved demonstrates to the satisfaction of the Associate Administrator, OPS that,

under the particular facts and circumstances involved, such equipment, material, or technique is not hazardous.

(e) In making a determination under paragraph (d) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly.

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation.

(3) The characteristics of the geographical areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas.

(4) Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board, and

(5) Such other factors as the Associate Administrator, OPS may consider appropriate.

(f) A corrective action order shall contain the following information:

(1) A finding that the pipeline facility is hazardous to life, property, or the environment.

(2) The relevant facts which form the basis of that finding.

(3) The legal basis for the order.

(4) The nature and description of any particular corrective action required of the respondent.

(5) The date by which the required corrective action must be taken or completed and, where appropriate, the duration of the order.

(6) If the opportunity for a hearing was waived pursuant to paragraph (b) of this section, a statement that an opportunity for a hearing will be available at a particular time and location after issuance of the order.

## § 190.235

(g) The Associate Administrator, OPS shall rescind or suspend a corrective action order whenever the Associate Administrator, OPS determines that the facility is no longer hazardous to life, property, or the environment. When appropriate, however, such a rescission or suspension may be accompanied by a notice of probable violation issued under § 190.207.

(h) At any time after a corrective action order issued under this section has become effective, the Associate Administrator, OPS may request the Attorney General to bring an action for appropriate relief in accordance with § 190.235.

(i) Upon petition by the Attorney General, the District Courts of the United States shall have jurisdiction to enforce orders issued under this section by appropriate means.

[70 FR 11138, Mar. 8, 2005]

### § 190.235 Civil actions generally.

Whenever it appears to the Associate Administrator, OPS that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any provision of 49 U.S.C. 60101 *et seq.*, or any regulations issued thereunder, the Administrator, PHMSA, or the person to whom the authority has been delegated, may request the Attorney General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, civil penalties, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

[70 FR 11139, Mar. 8, 2005]

### § 190.237 Amendment of plans or procedures.

(a) A Regional Director begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195, and 199 of this subchapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 of this part and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice

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shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Associate Administrator, OPS shall determine whether the plans or procedures are inadequate as alleged and order the required amendment if they are inadequate, or withdraw the notice if they are not. In determining the adequacy of an operator's plans or procedures, the Associate Administrator, OPS shall consider:

(1) Relevant available pipeline safety data,

(2) Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility, and for the location of the facility,

(3) The reasonableness of the plans or procedures, and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in this subpart.

[Amdt. 190-3, 56 FR 31090, July 9, 1991, as amended by Amdt. 190-6, 61 FR 18516, Apr. 26, 1996]

### Subpart C—Procedures for Adoption of Rules

SOURCE: Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, unless otherwise noted.

#### § 190.301 Scope.

This subpart prescribes general rule-making procedures for the issue, amendment, and repeal of Pipeline Safety Program regulations of the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

#### § 190.303 Delegations.

For the purposes of this subpart, *Administrator* means the Administrator,