

JUL 09 2009

Mr. John W. Moore
Vice-President, Pipelines and Terminals
Tesoro Refining and Marketing Company
1225 17th Street, Suite 1800
Denver, CO 80202

Re: CPF No. 5-2004-5033

Dear Mr. Moore:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation, withdraws one allegation of violation and part of another, and assesses a reduced civil penalty of \$10,000. The Final Order also specifies actions that need to be taken by Tesoro to comply with the pipeline safety regulations and to revise its Integrity Management Program procedures. The penalty payment terms are set forth in the Final Order.

When the civil penalty has been paid, the terms of the compliance order completed, and the procedures satisfactorily amended, 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.

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 0390 0005 6162 5036]

**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 Co.,) **CPF No. 5-2004-5033**
))
Respondent.))
_____))

FINAL ORDER

From November 4-6, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA)¹, Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the written Integrity Management Program (IMP) of Tesoro Refining and Marketing Company (Tesoro or Respondent) at the company's offices in Denver, Colorado. Tesoro's IMP covers all of its DOT-regulated pipeline systems in the United States, including ones in Alaska, Hawaii, Utah, and North Dakota. At the time of the inspection, Tesoro operated approximately 335 miles of regulated hazardous liquid pipelines.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated December 9, 2004, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order, and Notice of Amendment (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. § 195.452, assessing a civil penalty of \$20,000 for the said violations, and ordering Respondent to take certain measures to correct said violations. The Notice also proposed, in accordance with 49 C.F.R. § 190.237, that Tesoro amend its IMP procedures.

Respondent responded to the Notice by letter dated January 7, 2005 (Response). Tesoro contested certain allegations and submitted copies of its revised IMP procedures. Respondent did not request a hearing and therefore has waived its right to one. The following Final Order discusses each of the allegations set forth in the Notice and the issues raised by Respondent. The discussion is divided into six sections: Findings of Violation; Assessment of Penalty; Compliance Order; Amendment of Procedures; Order Directing Amendment; and Warning Items.

¹ Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) succeeded the Research and Special Programs Administration as the agency responsible for regulating 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) re delegating the pipeline safety authorities and functions to the PHMSA Administrator.

FINDINGS OF VIOLATION

Contested Items

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1(a): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1), which states, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(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:

(1) A process for identifying which pipeline segments could affect a high consequence area; . . .

(3) An analysis that integrates all available information about the integrity of the entire pipeline and the consequences of a failure (see paragraph (g) of this section);

(4) Criteria for remedial actions to address integrity issues raised by the assessment methods and information analysis (see paragraph (h) of this section); . . .

(7) Methods to measure the program's effectiveness (see paragraph (k) of this section);

(8) A process for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information (see paragraph (h)(2) of this section).

The Notice alleged that Respondent violated § 195.452(f)(1) by failing to identify all of the pipeline segments in its system that “could affect” a High Consequence Area (HCA).² Specifically, the Notice alleged that Tesoro’s “could affect” segment maps were neither consistent with Appendix C of its own IMP manual nor the maps in the National Pipeline Mapping System (NPMS). For example, the company’s maps did not include “could affect” segments of the Great Plains Pipeline that were located close to Other Populated Area (OPA) HCAs.³

² An HCA is defined as: (1) *A commercially navigable waterway*, which means a waterway where a substantial likelihood of commercial navigation exists; (2) *A high population area*, which means an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile; (3) *An other populated area*, which means a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area; (4) *An unusually sensitive area*. See 49 C.F.R. § 195.6.

³ Id.

In its Response, Tesoro contested this allegation yet acknowledged that it had left two OPA HCAs out of its IMP.⁴ Tesoro further noted that it had revised its IMP after the inspection to reflect that its pipeline could affect these OPA HCAs. Respondent argued, however, that the omission of these OPAs had “minimal” impact on its program because they were low-risk segments in Tesoro’s overall risk ranking system.

I find Respondent’s arguments unpersuasive. One of the principal goals of the segment identification process is for operators to ensure that they identify, and include in their IMPs, all pipeline segments that “could affect” an HCA. It is irrelevant whether the segments Tesoro failed to include were either low-risk or high-risk. Respondent was required to identify all “could affect” segments yet failed to do so. After considering all the evidence, I find that Respondent violated § 195.452(f)(1) by failing to identify all pipeline segments that “could affect” HCAs.

The Notice also alleged that Tesoro could not ensure that all of its pipelines were accurately reflected in the NPMS. However, in its Response, Tesoro presented information demonstrating that it had timely submitted NPMS data on June 16, 2003, and had thereafter submitted revised information as it became available. Therefore, I withdraw this portion of the allegation of violation.

Item 1(b): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1), as quoted above, by failing to have an adequate process for identifying which pipeline segments “could affect” an HCA. Specifically, the Notice alleged that the process was inadequate because Tesoro had not performed segment identification on one of its pipeline systems known as the Golden Eagle Pipeline. Subsequent to the inspection, OPS learned that the Golden Eagle Pipeline is an intrastate pipeline currently regulated by the California State Fire Marshal and not by OPS. Accordingly, I withdraw this allegation of violation.

Uncontested Items

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

Item 1(c): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(3), as quoted above, by failing to include in its IMP an analysis that integrated all available information about the integrity of its entire pipeline system and the consequences of a failure. Specifically, the Notice alleged that Tesoro failed to consider potential release volumes from its entire pipeline system, including tanks. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(f)(3) by failing to include in its IMP an analysis that integrated all available information about the integrity of its entire pipeline system and the consequences of a failure.

Item 3(a): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(8), as quoted above, by failing to include in its IMP a process for the review of integrity assessment results and a means for revision control. Tesoro did not contest this allegation. Accordingly, I find that

⁴ Response at 2. While the two HCAs appeared on Tesoro’s “HCA analysis maps,” these areas were omitted from the tabular list of HCAs in Appendix C.

Respondent violated 49 C.F.R. § 195.452(f)(8) by failing to include in its IMP a process for the review of integrity assessment results and a means for revision control.

Item 3(b): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(8), as quoted above, by failing to include in its IMP a process for ensuring that personnel reviewing integrity assessment results are qualified to perform such reviews. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(f)(8) by failing to include in its IMP a process for ensuring that personnel reviewing integrity assessment results are qualified to perform such reviews.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(4), as quoted above, by failing to have sufficiently detailed criteria for taking remedial action to address integrity issues raised by the assessment methods and information analysis used in its IMP. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated § 195.452(f)(4) by failing to have sufficiently detailed criteria for taking remedial action to address integrity issues raised by the assessment methods and information analysis in its IMP.

Item 5(a): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(e)(1), which states, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(e) *What are the risk factors for establishing an assessment schedule (for both the baseline and continual integrity assessments)?*

(1) An operator must establish an integrity assessment schedule that prioritizes pipeline segments for assessment (see paragraphs (d)(1) and (j)(3) of this section). An operator must base the assessment schedule on all risk factors that reflect the risk conditions on the pipeline segment. The factors an operator must consider, but are not limited to:

The Notice alleged that Respondent violated § 195.452(e)(1) by failing to set an integrity assessment schedule based upon all risk factors that reflect the risk conditions on each pipeline segment. Specifically, the Notice alleged that Tesoro's risk analysis lacked definitions for variables, variable weights, the basis for risk factors, and a process for populating, maintaining, and updating the input database. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated § 195.452(e)(1) by failing to set an integrity assessment schedule based upon all risk factors that reflect the risk conditions on each pipeline segment.

Item 5(b): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(e)(1), as quoted above, by failing to include breakout tanks in the risk analysis it performed for determining an integrity assessment schedule. More fundamentally, the Notice alleged that Tesoro did not include breakout tanks in its IMP. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated 49 C.F.R. § 195.452(e)(1), by failing to include breakout tanks in the risk analysis it performed for determining an integrity assessment schedule or to include such tanks at all in its IMP.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(i)(1), which states:

195.452 Pipeline integrity management in high consequence areas.

(a)

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) *General requirements.* An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls.

The Notice alleged that Respondent violated § 195.452(i)(1) by failing to have an adequate process for selecting and implementing measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA. Specifically, the Notice alleged that Tesoro's IMP lacked a detailed process for assessing risks, selecting candidate preventive and mitigative measures, and deciding whether to implement them. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated § 195.452(i)(1) by failing to have an adequate process for selecting and implementing measures to prevent and mitigate the consequences of a pipeline failure that could affect an HCA.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(7), as quoted above, by failing to include adequate methods to measure the effectiveness of its IMP. Specifically, the Notice alleged that Tesoro had neither a clearly defined process for applying performance metrics to evaluate the effectiveness of its IMP nor a process for distribution and review of its evaluation results. Tesoro did not contest this allegation. Accordingly, I find that Respondent violated § 195.452(f)(4) by failing to include adequate methods to measure the effectiveness of its IMP.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative 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 a civil penalty, I consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent

damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$20,000 for two violations of § 195.452(f)(1).

Notice Item 1(a) proposed a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.452(f)(1), for Respondent's alleged failure to identify all of its pipeline segments that "could affect" an HCA. Tesoro contested this allegation yet acknowledged that it had left two OPA HCAs out of its IMP. Tesoro argued, however, that when it subsequently added the two OPAs to its IMP, the risks to the OPAs were found to be relatively low in the overall risk ranking. As discussed above, Tesoro is responsible for identifying and including in its IMP all "could affect" segments, regardless of risk ranking. Tesoro has submitted no evidence that would warrant the reduction or elimination of the civil penalty for this Item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violating 49 C.F.R. § 195.452(f)(1).

Notice Item 1(b) proposed a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.452(f)(1), for Respondent's alleged failure to have an adequate process for identifying which pipeline segments could affect an HCA. This allegation of violation has been withdrawn. Accordingly, I withdraw the proposed penalty for this Item.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-341), P.O. Box 269039, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to 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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the **\$10,000** 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 respect to **Items 1(a-c), 3(a-b), 4, 5(a-b), 6 and 7** in the Notice for violations of 49 C.F.R. § 195.452.

The Final Order withdraws a portion of the allegation in **Item 1(a)** and the full allegation of violation in **Item 1(b)** of the Notice. Therefore, Respondent need not take any action regarding those Items. Regarding the proposed compliance order related to **Items 3(a-b), 4, 6 and 7** of the Notice, the Director has indicated that Respondent has taken the following actions to address the cited violations:

1. With respect to **Item 3(a)**, concerning Tesoro's violation of 49 C.F.R. § 195.452(f)(8), Section IM007 of the company's revised procedures now includes a process and means for revision control, for performing reviews of integrity assessment results.
2. With respect to **Item 3(b)**, concerning Tesoro's violation of 49 C.F.R. § 195.452(f)(8), Section IM007 of the company's revised procedures now includes a process to ensure that personnel performing reviews of integrity assessment results are qualified.
3. With respect to **Item 4**, concerning Tesoro's violation of 49 C.F.R. § 195.452(f)(4), Section IM010 of the company's revised procedures now includes additional detail in the process for determining what pipeline repairs are necessary.
4. With respect to **Item 6**, concerning Tesoro's violation of 49 C.F.R. § 195.452(i)(1), Section IM011 of the company's revised procedures now includes a detailed methodology for evaluating the effectiveness of preventive and mitigative measures.
5. With respect to **Item 7**, concerning Tesoro's violation of 49 C.F.R. § 195.452(f)(7), section FM015-02 of the company's revised procedures now includes improved methods to measure IMP effectiveness.

Accordingly, since compliance has been achieved with respect to these violations, the compliance terms are not included in this Order.

A compliance order remains necessary however, to address the violations described in **Items 1(c)** and **5(a-b)**. In its Response, Tesoro indicated that it planned to update its processes and procedures in response to Notice Items 1(c) and 5(b). Regarding Item 5(a), Tesoro submitted revised procedures. However, these procedures remain inadequate because the company has not modified its risk model to incorporate all threats that may be applicable to its operations. For example, Tesoro has pipelines in areas where conditions that may promote stress corrosion cracking (SCC) are known to exist but the company has not incorporated SCC threats into its risk model.

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. Respondent shall:

1. Regarding **Item 1(c)**, pertaining to Tesoro's violation of § 195.452(f)(3) for its failure to conduct an analysis that integrates certain information about the integrity of its pipelines and the consequence of a failure, identify and include in its IMP all pipeline facilities that could affect an HCA.
2. Regarding **Item 5(a)**, pertaining to Tesoro's violation of § 195.452(e)(1) for its failure to sufficiently document a process for risk analysis in support of its assessment schedule, modify its risk model and procedures to include all threats that may be applicable to its operations, including, but not limited to, SCC threats.
3. Regarding **Item 5(b)**, pertaining to Tesoro's violation of § 195.452(e)(1) for its failure to include breakout tanks in the risk analysis supporting its integrity assessment schedule and in its IMP, include breakout tanks in its IMP and add them to the risk analysis.

4. Regarding all Compliance Order requirements listed above, ensure that all revised procedures and processes are of sufficient detail such that they: (a) clearly articulate the necessary steps to perform each program element and ensure repeatability; (b) describe key sources for information inputs; (c) define process outputs, process documentation (including documentation of the justifications for decisions), and document retention requirements; and (d) specify organizational responsibilities for each key step in the process or procedure.
5. Within 60 days of receipt of this Final Order, Tesoro must complete the work required in paragraphs 1-4 above and submit documentation and revised procedures to the Director, Western Region, Office of Pipeline Safety, PHMSA, 12300 W. Dakota Avenue, Suite 110, Lakewood, CO 80228.
6. Tesoro must maintain documentation of the costs associated with fulfilling this compliance order and submit the total to the Director, Western Region.

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 demonstrating good cause for an extension.

Failure to comply with this Order may result in 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.

AMENDMENT OF PROCEDURES

Items 1(d), 3(c), 3(d) and 8 in the Notice alleged certain inadequacies in Respondent's IMP and proposed to require that the company amend its IMP procedures to comply with the requirements of 49 C.F.R. § 195.452. In its Response, Tesoro submitted copies of its amended procedures, which the Director has reviewed. Accordingly, based on the results of this review, I find that Respondent's original procedures as described in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies. Therefore, no need exists to issue an Order Directing Amendment for these Items.

ORDER DIRECTING AMENDMENT

Items 1(e) and 9 in the Notice alleged other inadequacies in Tesoro's IMP and proposed to require that Respondent amend its procedures to comply with the requirements of 49 C.F.R. § 195.452.

Item 1(e) in the Notice alleged that Tesoro's IMP procedures were inadequate because they did not consider all of the risk factors that reflect the risk conditions on the pipeline. Specifically, the Notice alleged that Tesoro's IMP procedures did not include a "sensitivity analysis" that considered a wide range of pipeline break sizes and response times. The Notice alleged that without an analysis that considered a variety of break scenarios and the extent to which spills could spread, Tesoro could not properly determine the potential effects of different size spills or produce a sufficiently conservative evaluation of their effects on HCAs. In its Response, Tesoro indicated that it would make changes to its IMP procedure after further analysis.

Item 9 in the Notice alleged that Tesoro's IMP procedures were inadequate because they did not discuss how data from inspections and tests required under Part 195 (e.g., cathodic protection survey data) would be used in establishing pipeline reassessment intervals. Although Respondent submitted amended procedures on January 7, 2005, they still do not address all of the inadequacies described in the Notice.

Accordingly, I find that Respondent's IMP procedures are inadequate to assure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.237, Respondent is ordered to make the following changes to its procedures. Respondent must—

1. Regarding **Item 1(e)**, amend its IMP procedures to conduct a sensitivity analysis that considers a wide range of pipeline break sizes and response times. Use the results to determine predicted spill volumes and spread extents to ensure that potential spill impacts are evaluated conservatively enough to provide adequate protection for HCAs.
2. Regarding **Item 9**, amend its IMP procedures to integrate data from inspections and tests required under Part 195 into its IMP, such that these data are analyzed along with other assessment data when establishing assessment intervals.
3. Submit the amended procedures to the Director within 30 days following receipt of this Order.

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 demonstrating good cause for an extension.

Failure to comply with this Order Directing Amendment may result in 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.

WARNING ITEMS

With respect to **Items 1(f), 2(a), 2(b), 5(c), and 10**, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.452(e)(1)(iv) (Notice Item 1(f)) — Respondent's alleged failure to conduct an air dispersion analysis for potential impacts on HCAs for most of its pipelines. In its Response, Respondent indicated that it believed it did not need to perform such analyses on its pipelines because they were not transporting highly volatile liquids (HVLs). Respondent is incorrect. Air dispersion can be a significant transport mechanism for certain components (hydrogen sulfide, benzene, etc.) of crude and refined products with vapor pressures too high to qualify as HVLs.⁵

⁵ At atmospheric pressure, these components vaporize readily and can be transported at hazardous concentrations for significant distances. For these commodities, use of a conservative air dispersion analysis technique is important for determining the segments that could affect a HCA, as well as determining the extent of the consequences in the event of a release.

49 C.F.R. § 195.452(c)(1)(i) (Notice Item 2(a)) — Respondent’s alleged failure to specify or justify in its Baseline Assessment Plan (BAP) the choice of assessment methods to be used for each pipeline section.

49 C.F.R. § 195.452(c)(2) (Notice Item 2(b)) — Respondent’s alleged failure to include a process for revising its BAP.

49 C.F.R. § 195.452(e)(1) (Notice Item 5(c)) — Respondent’s alleged failure to have a process for populating its risk model data fields using available records and input from Tesoro’s subject matter experts.

49 C.F.R. § 195.452(l)(1)(ii) (Notice Item 10) — Respondent’s alleged failure to identify the documents to be retained from the segment identification process and their retention period.

Respondent presented information in its Response showing that it had taken certain actions to address the cited items. Having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. §§ 195.452(c)(1)(i) (Notice Item 2(a)), 49 C.F.R. § 195.452(c)(2) (Notice Item 2(b)), 195.452(e)(1) (Notice Item 5(c)), and 195.452(l)(1)(ii) (Notice Item 10) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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. All other terms of the order, including any required corrective action and amendment of procedures, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued