



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JUN 11 2009

Mr. Randy Cleveland
Production Manager for U.S. Production
ExxonMobil Production Company
P.O. Box 4358
Houston, TX 77210-4358

Re: CPF No. 5-2005-5015

Dear Mr. Cleveland:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$15,000. The Final Order also specifies actions that need to be taken by ExxonMobil to comply with the pipeline safety regulations and requires the revision of certain operating and maintenance procedures. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the Compliance Order and Amendment of Procedures 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.

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 1160 0001 0046 9587]

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

_____)
In the Matter of)

ExxonMobil Production Company,)

Respondent.)
_____)

CPF No. 5-2005-5015

FINAL ORDER

On December 1-2, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of ExxonMobil Production Company's (ExxonMobil's or Respondent's) integrity management program in Houston, Texas.¹ ExxonMobil Production Company is a subsidiary of ExxonMobil Corporation and operates several hundred miles of pipelines in Texas, Alabama, Colorado, and in Federal and State waters.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated March 22, 2005, 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 violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$15,000 for the alleged violations, and proposed ordering Respondent to 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 operations, maintenance and emergencies.

Respondent responded to the Notice by letter dated April 22, 2005, as supplemented by letter dated June 21, 2005. Respondent contested the allegations and requested a hearing. A hearing was held on November 8, 2006 in Lakewood, Colorado with Mr. Larry White, Office of Chief Counsel, PHMSA, presiding. At the hearing, Respondent was represented by counsel. Following the hearing, Respondent provided additional information for the record on December 6, 2006, including a summary of the information it had presented at the hearing (collectively, "Response").

¹ At the time of the inspection, OPS was part of the DOT's Research and Special Programs Administration (RSPA). Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was established pursuant to The Norman Y. Mineta Research and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423 (2004). PHMSA succeeded to all authority formerly exercised by RSPA under chapter 601 of title 49, United States Code. Pending enforcement matters were not affected. See also 70 Fed. Reg. 8299-8302 (2005).

FINDINGS OF VIOLATION

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

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

§ 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;

(2) A baseline assessment plan meeting the requirements of paragraph (c) of this section;

(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);

(5) A continual process of assessment and evaluation to maintain a pipeline's integrity (see paragraph (j) of this section);

(6) Identification of preventive and mitigative measures to protect the high consequence area (see paragraph (i) 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).

Item 1(a) of the Notice alleged that Respondent violated § 195.452(f)(1) by failing to adopt adequate procedures for collecting and using input from field personnel as part of its ongoing segment identification activities under its integrity management (IM) program. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by ExxonMobil in its Response and at the hearing, I find that this item is more appropriately addressed as a Notice of Amendment (NOA). Accordingly, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 1(c) of the Notice alleged that Respondent violated § 195.452(f)(1) by failing to have a segment identification process in place sufficient to ensure that all pipe segments that could affect a high consequence area (HCA) were covered by its IM program.² In its Response and at the hearing, ExxonMobil conceded that it had not completed a risk-based listing of its “could affect” segments by the December 31, 2001, deadline set forth in the regulation. The company provided additional information and explanations regarding the proposed penalty amount, which will be discussed in the Assessment of Penalty section below. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(f)(1) by failing to have a segment identification process in place sufficient to ensure that all segments that could affect an HCA were covered by its IM program.

Item 1(d) alleged that Respondent’s IM program did not include adequate procedures for the segment identification revision process. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(3), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:

(1)

(3) Include in the program a plan to carry out baseline assessments of line pipe as required by paragraph (c) of this section.

Item 2(a) of the Notice alleged that Respondent violated § 195.452(b)(3) by failing to adopt adequate procedures for specifying and technically justifying the choice of assessment methods to be used for each pipeline segment. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by ExxonMobil in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

² The process of identifying pipeline segments that “could affect” HCAs is a key early step in an IM program. 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*, as defined in § 195.6. See, 49 C.F.R. § 195.450

Item 2(b) of the Notice alleged that Respondent violated § 195.452(b)(3) by failing to adopt adequate procedures for the baseline assessment plan revision process. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by ExxonMobil in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 3(b) of the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(8), as quoted above, by failing to include adequate procedures and criteria for qualifying personnel to perform reviews of integrity assessment results. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

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

§ 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 include, but are not limited to:

- (i) Results of the previous integrity assessment, defect type and size that the assessment method can detect, and defect growth rate;
- (ii) Pipe size, material, manufacturing information, coating type and condition, and seam type;
- (iii) Leak history, repair history and cathodic protection history;
- (iv) Product transported;
- (v) Operating stress level;
- (vi) Existing or projected activities in the area;
- (vii) Local environmental factors that could affect the pipeline (e.g., corrosivity of soil, subsidence, climatic);
- (viii) geo-technical hazards; and
- (ix) Physical support of the segment such as by a cable suspension bridge.

Item 5(b) of the Notice alleged that Respondent violated § 195.452(e) by failing to include in its IM program a risk analysis for some tank farms that OPS considered to include breakout tanks that should have been included in the company's IM program. In its Response and at the hearing, Respondent pointed out that the treatment of breakout tanks and other facilities was

already being addressed under Item 1(b) below. OPS concurred. Based on this information, I hereby withdraw this allegation of violation.

Item 5(d) of the Notice alleged that Respondent violated § 195.452(e) by failing to include a complete process for documenting any changes to the risk model and/or risk evaluation process. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

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 EFRDs³ 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.

Item 6(a) of the Notice alleged that Respondent violated § 195.452(i)(1) by failing to adopt adequate procedures for establishing and evaluating preventive and mitigative measures. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 6(c) of the Notice alleged that Respondent violated § 195.452(i)(1) by failing to adopt adequate procedures for evaluating the use of leak detection and/or EFRD capability to mitigate risks. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

³ Emergency flow restricting devices. *See* 49 C.F.R. § 195.450.

Item 7(b): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(7), as quoted above, by failing to adopt adequate procedures for evaluating the effectiveness of the IM program and documenting the evaluations. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 9: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(1) *What records must be kept?* (1) An operator must maintain for review during an inspection:

(i) A written integrity management program in accordance with paragraph (b) of this section.

(ii) Documents to support the decisions and analyses, including any modifications, justifications, variances, deviations and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

Item 9(a) of the Notice alleged that Respondent violated § 195.452(l)(i) by failing to adopt adequate procedures for identifying which IMP documents and records are to be maintained and their retention period. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 9(b) of the Notice alleged that Respondent violated § 195.452(l)(i) by failing to adopt adequate procedures for documenting and tracking changes to its written IM plan and any deviations or modifications during implementation of plan elements. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 11: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(c)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(c) *What must be in the baseline assessment plan?* (1) An operator must include each of the following elements in its written baseline

assessment plan:

(i) The methods selected to assess the integrity of the line pipe. An operator must assess the integrity of the line pipe by any of the following methods. The methods an operator selects to assess low frequency electric resistance welded pipe or lap welded pipe susceptible to longitudinal seam failure must be capable of assessing seam integrity and of detecting corrosion and deformation anomalies.

(A) Internal inspection tool or tools capable of detecting corrosion and deformation anomalies including dents, gouges and grooves;

Item 11 of the Notice alleged that Respondent violated § 195.452(c)(1) by failing to use a geometry tool capable of detecting and identifying deformation anomalies in conducting its baseline assessment. In its Response and at the hearing, ExxonMobil acknowledged that the data it used in its baseline assessment was incomplete due to the lack of a geometry tool run and that this was not consistent with the regulation. Respondent provided additional information and explanations regarding the proposed penalty amount, which will be discussed in the Assessment of Penalty section below. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(c)(1) by failing to use a geometry tool capable of detecting and identifying deformation anomalies in conducting its baseline assessments.

Item 12(a): Item 12(a) of the Notice alleged that Respondent violated 49 C.F.R. § 195.452(f), as quoted above, by failing to document a process for integrating all available information about the integrity of the pipeline in its risk analysis. In its Response and at the hearing, Respondent pointed out that the integration of information was already being addressed under Item 8 below. OPS concurred. Based on this information, I hereby withdraw this allegation of violation.

Item 12(b): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f), as quoted above, by failing to document training requirements for individuals with key risk analysis responsibilities. In its Response and at the hearing, Respondent pointed out that the training of individuals with risk analysis responsibilities was already being addressed under Item 3(a) below. OPS concurred. Based on this information, I hereby withdraw this allegation of violation.

Item 12(c): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f), as quoted above, by failing to adopt adequate procedures for reviewing and updating assumptions that were being used in the risk analysis. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 12(e): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f), as quoted above, by failing to adopt adequate procedures for communicating the results of the company's own Performance Evaluation process within the company. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and

at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

Item 12(g): The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f), as quoted above, by failing to adopt adequate procedures for integrating other information with assessment results when formulating remediation plans. At the hearing, ExxonMobil pointed out that this item solely involved written procedures which were under revision during the relevant period. After considering the information provided by Respondent in its Response and at the hearing, I am reducing this allegation of violation to a NOA and its disposition will be addressed in the Amendment of Procedures section below.

The findings of violation for Items 1(c) and 11 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 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 the 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.

With respect to Item 1(c), the Notice proposed a civil penalty of \$5,000 for Respondent's failure to have a segment identification process in place sufficient to ensure that all segments that could affect an HCA were covered by its IM program, in accordance with § 195.452(f)(1). The segment identification process is a key part of an IM program and forms the foundation for further stages of implementation. The failure to properly conduct the segment identification process has the potential to compromise the effectiveness of the entire program.

In its Response and at the hearing, ExxonMobil acknowledged that it had not completed a risk-based listing of its "could affect" segments by the December 31, 2001 deadline, but contended that the civil penalty amount of \$5,000 proposed in the Notice was unwarranted because the company had misinterpreted the requirement as permitting an operator to treat all of its pipeline segments as "could affect" segments. Such an interpretation, however, is not supported by the regulatory text and is not consistent with the principles of risk management, which necessarily involve the prioritization of risk. Respondent also stated that during the relevant time period, ExxonMobil U.S. East Production Company and ExxonMobil U.S. West Production Company

involve the prioritization of risk. Respondent also stated that during the relevant time period, ExxonMobil U.S. East Production Company and ExxonMobil U.S. West Production Company were consolidated, as were their two separate IM programs. Organizational changes, however, are common in the pipeline industry and PHMSA has never accepted organizational changes as a justification for failure to meet compliance deadlines. Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for violating 49 C.F.R. § 195.452(f)(1).

With respect to Item 11, the Notice proposed a civil penalty of \$10,000 for ExxonMobil's failure to use a geometry tool capable of detecting and identifying deformations in conducting its baseline assessments in accordance with § 195.452(c)(1). Use of appropriate assessment methods and tools is a key part of thoroughly assessing the risks on a pipeline. Under the regulation, use of a geometry tool in addition to metal-loss and other tools is required to identify dents and other deformation anomalies.

In its Response and at the hearing, ExxonMobil acknowledged that a geometry tool run was not performed during the relevant time period, but contended that the \$10,000 civil penalty proposed in the Notice was unwarranted because the company had voluntarily implemented integrity measures, prior to adoption of the integrity management rule, for the SYU 02 pipeline including span analysis, ROV surveys, and in-line inspections. Respondent also stated that the inclusion of the SYU 02 pipeline in its IM program was not necessary in order for the company to meet the 2004 mileage requirement. In addition, ExxonMobil noted that the company had remedied the situation in 2006 by running a full suite of in-line inspection tools, including a geometry tool.

The performance of other in-line inspection surveys, however, does not mitigate the failure to use a geometry tool as part of its initial assessment process. The use of a geometry tool is a key part of detecting deformation anomalies as part of conducting meaningful pipeline assessments. Respondent admits that it did not use a geometry tool until 2006, well after receiving the Notice in this enforcement proceeding. Respondent has presented no information that would warrant a reduction in the civil penalty amount proposed in the Notice for this violation. 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(c)(1).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$15,000**.

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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$15,000 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), 1(d), 2(a), 2(b), 3(b), 5(b), 5(d), 6(a), 6(c), 7(b), 9(a), 9(b), 11, 12(c), 12(e), and 12(g) in the Notice for the violations described above. Item 5(b) has now been withdrawn and therefore will not be a subject of this Compliance Order. Items 1(a), 1(d), 2(a), 2(b), 3(b), 5(d), 6(a), 6(c), 7(b), 9(a), 9(b), 12(c), 12(e), and 12(g) have been reduced to NOA items and their disposition will be addressed in the Amendment of Procedures section below.

With respect to the remaining item for which a Compliance Order was proposed, 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.

With respect to Item 11, Respondent provided information demonstrating that it ran a full suite of in-line inspection tools, including a geometry tool in 2006. Since compliance has been achieved with respect to this violation, it is unnecessary to include compliance terms in this Order.

AMENDMENT OF PROCEDURES

With respect to Items 1(b), 3(a), 3(c), 4, 7(a), 8, 10, 12(f), 12(i), and 13, the Notice alleged inadequacies in Respondent's operating and maintenance procedures and proposed to require amendment of the company's procedures to comply with the requirements of 49 C.F.R. § 195. In its Response and at the hearing, ExxonMobil pointed out that the issue in Item 12(f) was already being addressed under Item 2(a). OPS concurred. Based on this information, I am withdrawing Item 12(f). As indicated above, Items 1(a), 1(d), 2(a), 2(b), 3(b), 5(d), 6(a), 6(c), 7(b), 9(a), 9(b), 12(c), 12(e), and 12(g) will also be addressed in this section as NOA items.

Specifically, the Notice alleged the following inadequacies in Respondent's IM procedures as they existed at the time of the inspection:

Item 1(a) alleged that Respondent did not adopt adequate procedures for collecting, communicating, recording, and using field input in its segment identification process.

Item 1(d) alleged that Respondent did not adopt adequate procedures for the segment identification revision process.

Item 2(a) alleged that Respondent did not adopt adequate procedures specifying and technically justifying the choice of assessment methods to be used for each pipeline segment.

Item 2(b) alleged that Respondent did not adopt adequate procedures for the baseline assessment plan revision process.

Item 3(c) alleged that Respondent's procedures for obtaining and analyzing the significance of the data from its ILI tool vendors were inadequate.

Item 4 alleged that Respondent's procedures for documenting the cause of hydrostatic test failures and tracking the adequacy of corrective actions were inadequate.

Item 5(d) alleged that Respondent did not adopt an adequate process for documenting any changes to the risk model and/or risk evaluation process.

Item 6(a) alleged that Respondent did not adopt adequate procedures for establishing and evaluating preventive and mitigative measures.

Item 6(c) alleged that Respondent did not adopt adequate procedures for evaluating the use of leak detection and/or EFRD capability to mitigate risks.

Items 7(a)-(b) alleged that Respondent's process and criteria for evaluating its IM program and its procedures for documenting and communicating the effectiveness of its IM program were inadequate.

Item 8 alleged that Respondent's procedures for integrating and analyzing data gathered in conjunction with other inspections, tests, and monitoring (such as cathodic protection) required by Part 195 in establishing its ongoing reassessment interval were inadequate.

Item 9(a) alleged that Respondent did not adopt adequate procedures for identifying which IM program documents and records were to be maintained and their retention period.

Item 9(b) alleged that Respondent did not adopt adequate procedures for documenting and tracking changes to its written IM plan and any deviations or modifications during implementation of plan elements.

Item 10 alleged that Respondent's procedures for adding or removing pipeline segments from its IMP asset inventory and documenting the basis for doing so were inadequate.

Item 12(c) alleged that Respondent did not adopt adequate procedures for reviewing and updating the assumptions being used in its risk analysis.

Item 12(e) alleged that Respondent did not adopt adequate procedures for communicating

the results of the Performance Evaluation within the company.

Item 12(g) alleged that Respondent did not adopt adequate procedures for integrating other information with assessment results when formulating remediation plans.

Item 12(i) alleged that Respondent did not adequately document its process for integrating all available information about the integrity of the entire pipeline and the consequences of a failure; and

Item 13 alleged that Respondent's procedures for determining the date of discovery of a condition that presents a potential threat to the integrity of the pipeline and for determining what remedial actions should be taken when more than 180 days have elapsed since the date of discovery were inadequate.

In its Response and at the hearing, Respondent provided information concerning the revisions it made to its procedures following the inspection, including copies of relevant portions of the 2006 manual. The Director reviewed the revised procedures and determined that the inadequacies identified in these Notice items had been satisfactorily addressed. Accordingly, I find that Respondent's procedures as described in Items 1(a), 1(d), 2(a), 2(b), 3(c), 4, 5(d), 6(a), 6(c), 7(a)-(b), 8, 9(a), 9(b), 10, 12(c), 12(e), 12(i) and 13 in the Notice were inadequate to ensure safe operation of its pipeline system, but that Respondent has corrected the identified inadequacies.

With respect to Item 1(b), the Notice alleged that Respondent's procedures for including an evaluation of the potential effects of failures at certain pipeline facilities such as pump stations and tank farms in its segment identification process were inadequate. In its Response and at the hearing, Respondent stated that it had reevaluated the status of certain tanks associated with the SYU02 pipeline and that it believed the treatment of these tanks as breakout tanks was no longer warranted.

Although Respondent submitted amended procedures to the Director, these procedures did not comprehensively address all tanks, pump stations, metering stations, and other similar facilities and therefore did not address all of the inadequacies described in the Notice. Accordingly, I find that Respondent's procedures for including an evaluation of the potential effects of failures at certain pipeline facilities such as pump stations and tank farms in its segment identification process are inadequate to ensure safe operation of its pipeline system.

With respect to Items 3(a)-(b), the Notice alleged that Respondent's procedures for the performance of integrity assessment result reviews were inadequate and failed to include complete procedures and criteria for qualifying personnel to perform these reviews and maintain such qualification. Although Respondent submitted amended procedures to the Director, as reflected in the 2006 manual, these procedures did not address all of the inadequacies described in the Notice. Accordingly, I find that Respondent's procedures for the performance of integrity assessment result reviews are inadequate to ensure safe operation of its pipeline system.

With respect to Item 12(g), the Notice alleged that Respondent failed to adopt adequate

procedures for integrating other information with assessment results when formulating remediation plans. In its Response and at the hearing, Respondent stated that Article 7.5.6 of its 2004 IM program set forth a process involving the integration of information. OPS pointed out that as they existed in the 2004 IM program, the procedures failed to include sufficient detail to provide for integrating the assessment results with all other available information when formulating remediation plans. Accordingly, I find that Respondent's procedures for integrating other information with assessment results when formulating remediation plans are inadequate to ensure 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 revise its procedures as follows:

1. With respect to Item 1(b), amend the procedures to include an evaluation of the potential effects of failures at pipeline facilities such as pump stations and tank farms in its segment identification process;
2. With respect to Items 3(a)-(b), amend the procedures for the performance of integrity assessment result reviews to include adequate procedures and criteria for qualifying personnel to perform these reviews and maintain such qualifications;
3. With respect to item 12(g), amend the procedures to establish a process to integrate other information with assessment results when formulating remediation plans; and
4. Submit copies of the amended procedures for Items 1(b), 3(a)-(b), and 12(g) to the Director within 30 days following receipt of this Order.

WARNING ITEMS

With respect to Items 3(d), 5(a), 5(c), 5(e), 6(b), 12(d), 12(h), and 12(j), the Notice alleged probable violations of Part 195 but did not propose a civil penalty or Compliance Order for these items. Therefore, these items are considered to be warning items. The warnings were for:

49 C.F.R. § 195.452(f)(8) (Notice Item 3(d)) — Respondent's alleged failure to include a sufficiently detailed process for distribution and review of integrity assessment results;

49 C.F.R. § 195.452(e)(1) (Notice Item 5(a)) — Respondent's alleged failure to comprehensively document its risk analysis;

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

49 C.F.R. § 195.452(e)(1) (Notice Item 5(e)) — Respondent's alleged failure to perform quality control sufficient to ensure that the risk factors included in its risk model database fully correspond with field data and conditions;

49 C.F.R. § 195.452(i)(1) (Notice Item 6(b)) — Respondent's alleged failure to include HCA specific risk drivers in its process for developing preventative and mitigative measures;

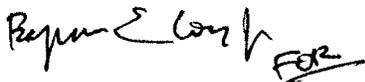
49 C.F.R. § 195.452(f) (Notice Item 12(d)) — Respondent's alleged failure to include a process ensuring that ILI tool vendors relay preliminary notifications of immediate repair conditions to the company;

49 C.F.R. § 195.452(f) (Notice Item 12(h)) — Respondent's alleged failure to define clear criteria for performing calibration/validation digs; and

49 C.F.R. § 195.452(f) (Notice Item 12(j)) — Respondent's alleged failure to include a process for determining when pressure reductions are to be initiated in response to the identification of anomalies.

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 the above-referenced probable violations of 49 C.F.R. Part § 195 have occurred and Respondent is hereby advised to correct such conditions. If 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. Should Respondent elect to do so, 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 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.

 FOR

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

06-11-09

Date Issued