

## NOTICE OF AMENDMENT

### OVERNIGHT EXPRESS DELIVERY

March 29, 2022

Mr. Michael Gudgeon  
Refinery Manager  
Toledo Refining Company, LLC  
1819 Woodville Road  
Oregon, Ohio 43616

CPF 1-2022-027-NOA

Dear Mr. Gudgeon:

From August 9, 2021 through September 15, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Toledo Refining Company, LLC's (Toledo) procedures.

On the basis of the inspection, PHMSA has identified the apparent inadequacies found within Toledo's plans or procedures, as described below:

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies.**
  - (a) ...
  - (c) ***Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**
    - (1) ...
    - (2) **Gathering of data needed for reporting accidents under subpart B of this part in a timely and effective manner.**

Toledo's procedures for accident reports were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to include procedures for the gathering of data needed for reporting accidents in a timely and effective manner in accordance with § 195.402(c)(2).

During the inspection, PHMSA requested Toledo's procedure regarding reporting accident reports. Toledo provided its OME. OME Section 195.50 stated in part, "DOT Form 7000-1 Accident Report

(This form must be filed within 30 days of discovery of the accident, and whenever changes in the information reported or additions to the original report are received.”

However, the OME failed to state that a DOT Form 7000-1 Accident Report must be filed “as soon as practicable,” as required by § 195.54(a).<sup>1</sup>

Therefore, Toledo’s procedures failed to include procedures for the gathering of data needed for reporting accidents in a timely and effective manner in accordance with § 195.402(c)(2). Toledo must revise its procedures to address this requirement.

**2. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ...

(3) **Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo’s procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo’s *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to provide adequate details in its procedures for overpressure safety device inspection and testing in accordance with § 195.428(a).<sup>2</sup>

During the inspection, PHMSA requested Toledo’s procedures regarding the § 195.428 requirements. Toledo provided the OME Section 195.428 Overpressure Safety Devices and Overfill Protection Systems which stated in part, “Pressure Relief Valves – All pressure relief valves shall be inspected for leaks and functionality at least once each calendar year, not to exceed 15 months. As needed, settings shall be adjusted using appropriate testing equipment.”

The OME failed to provide sufficient guidance on conducting and documenting pressure relief valve inspections, such as:

1. What criteria are used to determine an acceptable “as-found” relief pressure.
2. What actions must be taken if the relief valve “as-found” pressure does not meet the criteria.
3. What are the definitions of the terms “set pressure” and “set point.”
4. What are the criteria for determining “pass” and “fail.”

Therefore, Toledo failed to provide adequate details in its procedures for overpressure safety device inspection and testing in accordance with § 195.428(a). Toledo must revise its procedures to address this requirement.

**3. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ...

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to include adequate details in its procedures for providing protection for each valve from unauthorized operation and from vandalism in accordance with § 195.420(c).<sup>3</sup>

During the inspection, PHMSA requested Toledo's procedures regarding valve protection. Toledo provided its OME. OME Section 195.420 Valve Maintenance stated in part, "[e]ach valve shall be protected from vandalism and unauthorized operation." However, the OME failed to state how the valves will be protected from unauthorized operation and from vandalism.

Therefore, Toledo failed to include adequate details in its procedures for providing protection for each valve from unauthorized operation and from vandalism in accordance with § 195.420(c). Toledo must revise its procedures to address this requirement.

**4. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

**(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

(1) ...

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to describe the interval and method for performing external ultrasonic thickness inspections of breakout tanks in accordance with § 195.432(b).<sup>4</sup>

Section 195.432(b) requires that operators inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653.<sup>5</sup> According to API Std 653 Section 6.3.3, ultrasonic thickness inspections must occur at an interval not exceeding five years if the corrosion rate is not known.

During the inspection, PHMSA requested Toledo's procedures regarding external ultrasonic thickness breakout tank inspections. Toledo provided the OME Section 195.432 Breakout Tanks which stated in part, "[u]ltrasonic thickness measurements of the shell shall be taken and a corrosion rate shall be determined. The external in-service inspection interval shall be determined by the formula of  $RCA/4N$ , where RCA is the remaining corrosion allowance or the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils/year." Toledo stated that the inspection frequency appeared to be for external inspections of breakout tanks, not ultrasonic thickness inspections. Therefore, Toledo's procedures failed to state the interval for

external ultrasonic thickness inspections. When PHMSA re-requested the procedures relevant to conducting ultrasonic thickness inspections, Toledo did not provide a relevant response.

Therefore, Toledo's procedures failed to describe the interval and method for performing external ultrasonic thickness inspections of breakout tanks in accordance with § 195.432(b). Toledo must revise its procedures to address this requirement.

**5. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

**(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

(1) ...

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to include a process to periodically review the work done by the operator's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found in accordance with § 195.402(c)(13).<sup>6</sup>

During the inspection, PHMSA requested Toledo's procedures regarding the § 195.402(c)(13) requirements and Toledo provided its OME. OME Section 195.402(c)(13) stated in part, "1) Supervisors will periodically review the work of operations and maintenance personnel. 2) The review should be directed at determining the effectiveness of procedures used in normal operation and maintenance. 3) Make appropriate changes or corrections to the procedures where deficiencies are found" and "Documentation - F-195.402(c)(13) Review of Work Done by Operator Personnel - Any training resulting from the review will be documented."

However, the OME failed to provide details such as what method or process is used to evaluate the work of operations and maintenance personnel and a specific interval to evaluate the work and associated procedures. During the inspection, Toledo stated that there was no information on how the § 195.402(c)(13) form is completed, nor any further process with those details.

Therefore, Toledo failed to include a process to periodically review the work done by the operator's personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found in accordance with § 195.402(c)(13). Toledo must revise its procedures to address this requirement.

**6. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

**(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

(1) ...

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to adequately describe the interval and method for performing internal inspections of breakout tanks in accordance with § 195.432(b).<sup>7</sup>

Section 195.432(b) prohibits the use of risk-based internal inspection procedures in API Std 653, section 6.4.3 to determine the internal inspection interval. API Std 653 Section 6.4.2.2. requires that the internal inspection interval shall not exceed 10 years when corrosion rates are not known.<sup>8</sup>

During the inspection, PHMSA requested Toledo's procedures regarding internal breakout tank inspections. Toledo provided the OME Section 195.432 Breakout Tanks which stated in part, "[t]he out-of-service inspection shall include all items addressed in the external in-service inspection and include a full floor scan of the tank bottom, when feasible, to evaluate [its] remaining service life and a comprehensive inspection of the underside of the floating roof. When it is unfeasible to perform a full floor scan of the tank bottom, a risk-based inspection assessment shall be performed by a trained and qualified individual knowledgeable in RBI methodology according to API-653 Section 4.4.3."

Toledo's procedures referenced evaluating the breakout tanks with a risk-based inspection which is not permitted under § 195.432(b). Toledo stated that the references in its OME to the risk-based alternative needed updating.

Therefore, Toledo's procedures failed to adequately describe the interval and method for performing internal inspections of breakout tanks in accordance with § 195.432(b). Toledo must revise its procedures to address this requirement.

**7. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

**(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

(1) ...

**(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to include details for protecting the pipeline against damage from fault currents or lightning in accordance with § 195.575(e).<sup>9</sup>

During the inspection, PHMSA requested Toledo's procedures regarding fault current and lightning protection. Toledo provided the OME; however, the OME failed to include any procedure or details for protecting the pipeline against damage from fault currents or lightning. Toledo discussed that they have lightning arrestors in use at the facility, but this is not detailed in a procedure.

Therefore, Toledo's procedures failed to include details for protecting the pipeline against damage from fault currents or lightning in accordance with § 195.575(e). Toledo must revise its procedures to address this requirement.

**8. § 195.402 Procedural Manual for operations, maintenance, and emergencies.**

(a) ...

**(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:**

(1) ...

**(7) Starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by § 195.406, consider the hazardous liquid or carbon dioxide in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices.**

Toledo's procedures for maintenance and normal operations were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME), *Monitor Pressure/Flow/Temperature and Maintain Within Allowable Limits per DOT, dated 12/12/16* (Monitor Procedure) and *Pipeline Startup and Shutdown, dated 06/29/18* (Startup Procedure) failed to include processes for starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by § 195.406, considering the hazardous liquid and variations in altitude along the pipeline in accordance with § 195.402(c)(7).

During the inspection, PHMSA requested Toledo's procedure regarding starting up and shutting down the pipeline system. Toledo provided its Monitor Procedure and Startup Procedure. However, those procedures failed to include any details on starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by § 195.406, considering the hazardous liquid in transportation, variations in altitude along the pipeline, and pressure monitoring and control devices. When PHMSA requested further information on the requirements within § 195.402(c)(7), such as how the limits prescribed by § 195.406 are considered as well as the process for shutting down pipeline valves in the system, Toledo stated that its procedures do not mention the § 195.406 requirements.

Therefore, Toledo's procedures failed to include processes for starting up and shutting down any part of the pipeline system in a manner designed to assure operation within the limits prescribed by § 195.406, considering the hazardous liquid and variations in altitude along the pipeline in accordance with § 195.402(c)(7). Toledo must revise its procedures to address this requirement.

**9. § 195.402 Procedural manual for operations, maintenance, and emergencies.**

(a) ...

**(f) *Safety-related condition reports.* The manual required by paragraph (a) of this section must include instructions enabling personnel who perform operation and maintenance activities to recognize conditions that potentially may be safety-related conditions that are subject to the reporting requirements of § 195.55.**

Toledo's procedures for safety-related conditions were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to include instructions in its procedures enabling personnel who perform operation and maintenance activities to recognize conditions that may be safety-related conditions subject to the reporting requirements of § 195.55.

During the inspection, PHMSA requested Toledo's procedure regarding recognizing safety-related conditions. Toledo provided the OME Section 195.55. Section 195.55 is related to reporting safety-related conditions and failed to include instructions related to the recognition of safety-related conditions. Toledo was unable to provide a relevant section of the OME which indicated compliance with § 195.402(f).

Therefore, Toledo failed to include instructions in its procedures enabling personnel who perform operation and maintenance activities to recognize conditions that may be safety-related conditions subject to the reporting requirements of § 195.55 in accordance with § 195.402(f). Toledo must revise its procedures to address this requirement.

**10. § 195.403 Emergency response training.**

(a) ...

**(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.**

Toledo's procedures for emergency response training were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Operations, Maintenance, and Emergencies Manual, dated 06/25/20* (OME) failed to require and include a process to verify that supervisors are knowledgeable of emergency response procedures for which they are responsible for in accordance with § 195.403(c).

During the inspection, PHMSA requested Toledo's procedures regarding emergency response supervisor training. Toledo provided the OME Section 195.403 Emergency Response Training which stated in part, "[e]ach operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the procedures for which they are responsible to insure compliance."

The OME did not include a detailed process to require and verify that supervisors are knowledgeable of emergency response procedures. Toledo was unable to provide a relevant section of the OME which indicated compliance with this requirement.

Therefore, Toledo failed to require and include a process to verify that supervisors are knowledgeable of emergency response procedures for which they are responsible for in accordance with § 195.403(c). Toledo must revise its procedures to address this requirement.

**11. § 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) ...**

**(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).**

Toledo's procedures for integrity management were inadequate to ensure safe operation of a pipeline facility. Specifically, Toledo's *Pipeline Integrity Management Plan, dated 12/10/20* (IMP) failed to include a process in its integrity management procedures for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information in accordance with § 195.452(f)(8).

During the inspection, PHMSA requested Toledo's procedure regarding qualifications for personnel who evaluate integrity assessments and information analysis. Toledo provided the IMP Section 6.2 which stated "[t]he Toledo Refining Company, LLC will use a third party to run ILI and generate feature report. The feature list will be reviewed by one or more of the following: TRC Engineering Group, TRC Inspection Group, TRC Operations, third party engineering or other groups familiar and educated in the interpretation. From this analysis, the feature list will be prioritized by severity and need."

However, the IMP failed to include details specifying qualification requirements for personnel who review and evaluate integrity assessment results and information analysis.

Therefore, Toledo failed to include a process in its integrity management procedures for review of integrity assessment results and information analysis by a person qualified to evaluate the results and information in accordance with § 195.452(f)(8). Toledo must revise its procedures to address this requirement.

#### Response to this Notice

This Notice is provided pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206. Enclosed as part of this Notice is a document entitled Response Options for Pipeline Operators in Enforcement Proceedings.

Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. § 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. § 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, revised procedures, or a request for a hearing under § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue an Order Directing Amendment. If your plans or procedures are found



inadequate as alleged in this Notice, you may be ordered to amend your plans or procedures to correct the inadequacies (49 C.F.R. § 190.206). If you are not contesting this Notice, we propose that you submit your amended procedures to my office within 30 days of receipt of this Notice. This period may be extended by written request for good cause. Once the inadequacies identified herein have been addressed in your amended procedures, this enforcement action will be closed.

It is requested (not mandated) that Toledo Refining Company, LLC maintain documentation of the safety improvement costs associated with fulfilling this Notice of Amendment (preparation/revision of plans, procedures) and submit the total to Robert Burrough, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. In correspondence concerning this matter, please refer to **CPF 1-2022-027-NOA** and, for each document you submit, please provide a copy in electronic format whenever possible. Smaller files may be emailed to [robert.burrough@dot.gov](mailto:robert.burrough@dot.gov). Larger files should be sent on USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

Robert Burrough  
 Director, Eastern Region  
 Pipeline and Hazardous Materials Safety Administration

Enclosure: Response Options for Pipeline Operators in Enforcement Proceedings

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<sup>1</sup> 49 C.F.R. § 195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under § 195.50 must, as soon as practicable, but not later than 30 days after discovery of the accident, file an accident report on DOT Form 7000-1.

<sup>2</sup> 49 C.F.R. § 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7 1/2 months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

<sup>3</sup> 49 C.F.R. § 195.420 Valve maintenance.

(a) ...

(c) Each operator shall provide protection for each valve from unauthorized operation and from vandalism.

<sup>4</sup> 49 C.F.R. § 195.432 Inspection of in-service breakout tanks.

(a) ...

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

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<sup>5</sup> API Std 653, Section 6.3.3.2 Ultrasonic Thickness Inspection

...

When the corrosion rate is not known, the maximum interval shall be 5 years. Corrosion rates may be estimated from tanks in similar service based on thickness measurements taken at an interval not exceeding 5 years. When the corrosion rate is known, the maximum interval shall be the smaller of  $RCA/2N$  years (where RCA is the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils per year) or 15 years

<sup>6</sup> 49 C.F.R. § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) ...

(c) *Maintenance and normal operations*. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ...

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

<sup>7</sup> 49 C.F.R. § 195.432 Inspection of in-service breakout tanks.

(a) ...

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

<sup>8</sup> API Standard 653 – Section 6.4.2.2 Inspection Intervals

When corrosion rates are not known and similar service experience is not available to estimate the bottom plate minimum thickness at the next inspection, the internal inspection interval shall not exceed 10 years.

<sup>9</sup> 49 C.F.R. § 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(a) ...

(e) If a pipeline is in close proximity to electrical transmission tower footings, ground cables, or counterpoise, or in other areas where it is reasonable to foresee fault currents or an unusual risk of lightning, you must protect the pipeline against damage from fault currents or lightning and take protective measures at insulating devices.