



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

APR 04 2013

Mr. Robert L. Rose  
President  
Tampa Airport Pipeline Corporation  
P.O. Box 35236  
Sarasota, FL 34242

**Re: CPF No. 2-2012-6021**

Dear Mr. Rose:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$77,400, and specifies actions that need to be taken by Tampa Airport Pipeline Corporation to comply with the pipeline safety regulations. 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 completed, as determined by the Director, Southern Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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: Mr. Wayne T. Lemoi, Director Office of Pipeline Safety, PHMSA Southern Region  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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In the Matter of )  
 )  
Tampa Airport Pipeline Corporation, )  
 )  
Respondent. )  
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**CPF No. 2-2012-6021**

**FINAL ORDER**

On November 8-10, 2011, and on March 22, 2012, 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 the facilities and Pipeline Integrity Management Plan (IMP) of the Tampa Airport Pipeline Corporation (TAPC or Respondent) in Tampa, Florida. TAPC operates the Tampa Airport Pipeline, a 6-inch diameter pipeline approximately 10.5 miles in length transporting jet fuel from Old Port Tampa to Tampa International Airport.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated October 23, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that TAPC had violated 49 C.F.R. §§ 195.452(b)(5), 195.452(d)(1), 195.452(g)(2), 195.452(h)(1), 195.452(h)(2), and 195.452(l)(1) and proposed assessing a civil penalty of \$77,400 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct several of the alleged violations.

Respondent failed to respond within 30 days of receipt of service of the Notice. Under 49 C.F.R. § 190.209(c), such failure to respond constitutes a waiver of TAPC's right to contest the allegations in the Notice and authorizes the Associate Administrator, without further notice, to find facts as alleged in the Notice and to issue this Final Order under § 190.213. In this case, the Notice was mailed to Respondent by certified mail (USPS Article No. 7010 2780 0001 0713 8674) on October 23, 2012 and was received by Respondent on October 31, 2012, as shown by the return receipt on file with PHMSA. To date, Respondent has never acknowledged or responded to the Notice. Under such circumstances, I find it reasonable and appropriate to enter this Final Order without further proceedings.

## FINDINGS OF VIOLATION

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

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (b) *What program and practices must operators use to manage pipeline integrity?*

Each operator of a pipeline covered by this section must:

... (5) Implement and follow the program.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to implement and follow its IMP as written. Specifically, the Notice alleged that TAPC's IMP only listed in-line inspection (ILI) as an approved assessment method, but on March 17, 2010 TAPC used pressure testing as an assessment method for its pipeline. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(b)(5) by not implementing and following its Integrity Management Plan as written.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (b) *What program and practices must operators use to manage pipeline integrity?*

Each operator of a pipeline covered by this section must

... (5) Implement and follow the program.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to perform annual risk assessments of its pipeline in accordance with its written IMP procedures. Specifically, the Notice alleged that TAPC's IMP required risk assessments to be conducted and that those risk assessment methods be "reviewed and updated annually." TAPC did not conduct risk assessments of its pipeline or related facilities per its written procedures. TAPC personnel stated that their risk assessment is an on-going process and is reviewed on a continuing basis. Upon request, TAPC personnel failed to provide documentation of this on-going review process.

Respondent did not contest this allegation of violation. I would note that once the baseline assessment of a pipeline segment is completed, the regulations do not require periodic re-assessments of that pipeline segment to be conducted annually. Respondent's written procedures did, however, require an annual evaluation of the risk assessment method used by Respondent in conducting risk assessments on its pipeline. The evidence showed that Respondent was unable to produce any records demonstrating completion of this annual evaluation of the risk assessment method. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(b)(5) by failing to follow its written risk assessment procedures.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(d)(1), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (d) *When must operators complete baseline assessments?* Operators must complete baseline assessment as follows:

(1) *Time periods.* Complete assessments before the following deadlines:

If the Pipeline is:	Then complete baseline assessments not later than the following dates according to a schedule that prioritizes assessments	And assess at least 50 percent of the line pipe on an expedited basis. Beginning with the highest risk pipe, not later than:
Category 1	March 31, 2008	September 30, 2004
Category 2	February 17, 2009	August 16, 2005
Category 3	Date the pipeline begins operation	Not applicable

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(d)(1) by failing to assess at least 50 percent of its Category 2 line pipe in high consequence areas before August 16, 2005. Specifically, the Notice alleged that while TAPC performed a pressure test in December 2004, this pressure test did not meet the pressure test requirements of Part 195, Subpart E and therefore was not a valid IMP assessment.<sup>1</sup> Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 199.452(d)(1) by operating a Category 2 pipeline but failing to assess the required amount of line pipe in high consequence areas by the required deadline, August 16, 2005.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(d)(1), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (d) *When must operators complete baseline assessments?* Operators must complete baseline assessment as follows:

(1) *Time periods.* Complete assessments before the following deadlines:

If the Pipeline is:	Then complete baseline assessments not later than the following dates according to a schedule that prioritizes assessments	And assess at least 50 percent of the line pipe on an expedited basis. Beginning with the highest risk pipe, not later than:
Category 1	March 31, 2008	September 30, 2004
Category 2	February 17, 2009	August 16, 2005
Category 3	Date the pipeline begins operation	Not applicable

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(d)(1) by failing to complete the required baseline assessment of all of its category 2 line pipe in high consequence areas by February 17, 2009. Specifically, the Notice alleged that while TAPC performed a pressure test in December 2004, this pressure test did not meet the pressure test requirements of Part 195, Subpart E and therefore was not a valid IMP assessment.<sup>2</sup> In a letter to PHMSA dated January 26, 2009, TAPC notified PHMSA that it attempted to assess the pipeline with ILI tools but was

<sup>1</sup> As noted in Item 1, pressure testing was not allowed as an assessment method under Respondent's written IMP as it existed at the time of the inspection.

<sup>2</sup> As noted in Item 1, pressure testing was not allowed as an assessment method under Respondent's written IMP as it existed at the time of the inspection.

unable to complete the assessment. The combination of the 2004 pressure test which was not a valid IMP assessment and an incomplete ILI does not meet the regulatory requirement to complete a full assessment of a pipeline segment subject to IMP. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(d)(1) by failing to complete the required baseline assessment of all of its category 2 pipeline by the February 17, 2009 deadline.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(g)(2), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (g) *What is an information analysis?* In periodically evaluating the integrity of each pipeline segment (paragraph (j) of this section), an operator must analyze all available information about the integrity of the entire pipeline and the consequences of a failure. This information includes:

... (2) Data gathered through the integrity assessment required under this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(g)(2) by failing to analyze all available information about the integrity of its pipeline. Specifically, the Notice alleged that TAPC failed to integrate all the report data from the 2008 and 2009 caliper and magnetic flux leakage (MFL) ILI tool runs in its data integration and analysis. While not all of these tool runs were complete as noted in Item 4 above, they did produce some information about the integrity of the pipeline. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(g)(2) by failing to analyze all available information about the integrity of its entire pipeline.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (h) *What actions must an operator take to address integrity issues?*

... (2) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2), by failing to promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about the identified conditions to make a determination that the conditions present a potential threat to the integrity of the pipeline or, in the alternative, to demonstrate that the 180-day period was impracticable. Specifically, the Notice alleged that TAPC, at the time of PHMSA's inspection in November 2011, had not taken any actions to make a determination of discovery after receiving an integrity assessment report from its tool vendor on January 14, 2009 of the December 7, 2008 Enduro caliper tool run which identified eight indications of integrity management conditions. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all

of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(2), by failing to obtain sufficient information about conditions to make a determination of discovery within 180 days of an integrity assessment and failing to demonstrate that the 180-day period was impracticable.

**Item 7:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (h) *What actions must an operator take to address integrity issues?*

(1) *General Requirements.* An operator must take prompt action to address all anomalous conditions the operator discovers through integrity assessment or information analysis. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity. An operator must be able to demonstrate that the remediation of the condition will ensure the condition is unlikely to pose a threat to the long-term integrity of the pipeline. An operator must comply with § 195.422 when making a repair.

... (4) *Special requirements for scheduling remediation.*

(i) *Immediate repair conditions.* An operator's evaluation and remediation schedule must provide for immediate repair conditions. To maintain safety, an operator must temporarily reduce operating pressure or shut down the pipeline until the operator completes the repair of these conditions. An operator must calculate the temporary reduction in operating pressure using the formula in Section 451.6.2.2 (b) of ANSI/ASME B31.4 (incorporated by reference, see § 195.3). An operator must treat the following conditions as immediate repair conditions:

... (D) A dent located on the top of the pipeline (above the 4 and 8 o'clock positions) with a depth greater than 6% of the nominal pipe diameter.

... (ii) *60-day conditions.* Except for conditions listed in paragraph (h)(4)(i) of this section, an operator must schedule evaluation and remediation of the following conditions within 60 days of discovery of condition.

(A) A dent located on the top of the pipeline (above the 4 and 8 o'clock positions) with a depth greater than 3% of the pipeline diameter (greater than 0.250 inches in depth for a pipeline diameter less than Nominal Pipe Size (NPS) 12).

(B) A dent located on the bottom of the pipeline that has any indication of metal loss, cracking or a stress riser.

... (iii) *180-day conditions.* Except for conditions listed in paragraph (h)(4)(i) or (ii) of this section, an operator must schedule evaluation and remediation of the following within 180 days of discovery of the condition:

(A) A dent with a depth greater than 2% of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12) that affects pipe curvature at a girth weld or a longitudinal seam weld.

(B) A dent located on the top of the pipeline (above 4 and 8 o'clock position) with a depth greater than 2% of the pipeline's diameter (0.250 inches in depth for a pipeline diameter less than NPS 12).

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(1), by failing to take action to address eight anomalous conditions on its pipeline after the completion of an integrity assessment that identified those conditions in January 2009. Specifically, the Notice alleged that

even after a PHMSA inspector called attention to the conditions in the 2009 tool vendor's report in discussions with TAPC personnel in November 2011, when the inspector returned in March 2012, TAPC still had not taken any actions to address these conditions or to schedule any of the conditions for remediation if the conditions could reduce the pipeline's integrity. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(h)(1), by failing to take prompt action to address eight anomalous conditions on its pipeline after the completion of an ILI tool run.

**Item 8:** The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1), which states in relevant part:

**§ 195.452 -- Pipeline integrity management in high consequence areas.**

... (h) *What records must be kept?*

(1) An operator must maintain for review during an inspection:

... (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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(l)(1) by failing to properly document certain decisions, analyses, justifications, and actions taken to implement and evaluate each element of its IMP. Specifically, the Notice alleged that TAPC failed to document the qualification of its Project Manager and Project Engineer for its assessments, as well as failing to document the analyses and decisions in the evaluations of TAPC's leak detection capability, the need for emergency flow restricting devices on its pipeline segment to protect a high consequence area, and measures to prevent and mitigate the consequences of a failure that could affect a high consequence area. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(l)(1) by failing to properly document the decisions, analyses, justifications, and actions taken to implement and evaluate each element of its IMP.

These findings of violation 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. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must 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 \$77,400 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$6,200 for Respondent's violation of 49 C.F.R. § 195.452(b)(5), for failing to implement and follow its IMP as written. With respect to the nature, circumstances, and gravity of this violation, any failure to follow a written IMP and use the approved assessment method has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to accurately implement the IMP for the systems they operate. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$6,200 for violation of 49 C.F.R. § 195.452(b)(5).

**Item 2:** The Notice proposed a civil penalty of \$11,200 for Respondent's violation of 49 C.F.R. § 195.452(b)(5), for failing to perform annual risk assessments of its pipeline in accordance with its written IMP procedures. With respect to the nature, circumstances, and gravity of this violation, failure to perform documented evaluations of its risk assessment methods has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to accurately implement the IMP for the systems they operate. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$11,200 for violation of 49 C.F.R. § 195.452(b)(5).

**Item 3:** The Notice proposed a civil penalty of \$5,000 for Respondent's violation of 49 C.F.R. § 195.452(d)(1), for failing to assess at least 50 percent of its Category 2 line pipe in high consequence areas before August 16, 2005. With respect to the nature, circumstances, and gravity of this violation, failure to perform risk assessments of the highest priority pipe segments subject to IMP requirements by the regulatory deadline has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to meet applicable deadlines. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for violation of 49 C.F.R. § 195.452(d)(1).

**Item 4:** The Notice proposed a civil penalty of \$5,000 for Respondent's violation of 49 C.F.R. § 195.452(d)(1), for failing to complete the required baseline assessment of all of its category 2 line pipe in high consequence areas by February 17, 2009. With respect to the nature, circumstances, and gravity of this violation, failure to perform risk assessments of all pipe segments subject to IMP requirements by the regulatory deadline has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to meet applicable deadlines. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed



the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for violation of 49 C.F.R. § 195.452(d)(1).

**Item 5:** The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 195.452(g)(2), for failing to analyze all available information about the integrity of its pipeline. With respect to the nature, circumstances, and gravity of this violation, failure to integrate and analyze all available information about pipeline integrity has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to consider all available information in maintaining the integrity of the systems they operate. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.452(g)(2).

**Item 6:** The Notice proposed a civil penalty of \$15,000 for Respondent's violation of 49 C.F.R. § 195.452(h)(2), for failing to obtain sufficient information about conditions to make a determination of discovery within 180 days of an integrity assessment or, in the alternative, failing to demonstrate that the 180-day period was impracticable. With respect to the nature, circumstances, and gravity of this violation, failure to promptly document discovery of anomalous conditions following an ILI tool run has the potential to impact safety. Respondent is culpable for the violation as no circumstance would have prevented Respondent from obtaining this information promptly from the tool vendor. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,000 for violation of 49 C.F.R. § 195.452(h)(2).

**Item 7:** The Notice proposed a civil penalty of \$15,000 for Respondent's violation of 49 C.F.R. § 195.452(h)(1), for failing to address eight anomalous conditions (and one possible anomalous condition) on its pipeline after the completion of an integrity assessment. With respect to the nature, circumstances, and gravity of this violation, failure to take action to address anomalous conditions following an ILI tool run has the potential to impact safety. Respondent is culpable for the violation as no circumstance would have prevented Respondent from taking action on information that was available from the tool vendor. Nothing in the record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,000 for violation of 49 C.F.R. § 195.452(h)(1).

**Item 8:** The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 195.452(l)(1), for failing to properly document the decisions, analyses, justifications, and actions taken to implement and evaluate each element of its IMP. With respect to the nature, circumstances, and gravity of this violation, failure to document decisions and actions taken to implement its IMP has the potential to impact safety. Respondent is culpable for the violation as pipeline operators are obligated to document such decisions to ensure affected personnel can avail themselves of prior analyses and lessons learned in implementing the IMP. Nothing in the

record constitutes a good faith effort to comply prior to the OPS inspection. TAPC neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.452(l)(1).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$77,400**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$77,400 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 district court of the United States.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2, 5, 6, 7, and 8 in the Notice for violations of 49 C.F.R. §§ 195.452(b)(5), 195.452(g)(2), 195.452(h)(2), 195.452(h)(1), and 195.452(l)(1), respectively. 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:

1. With respect to the violation of § 195.452(b)(5) (**Item 2**), Respondent must perform and fully document the risk assessment for its pipeline system per its IMP procedures. Respondent must complete these activities within 30 days of receipt of this Final Order, and provide written documentation confirming its completion to the Director, Office of Pipeline Safety, PHMSA Southern Region, within 45 days of receipt of this Final Order.
2. With respect to the violation of § 195.452(g)(2) (**Item 5**) and § 195.452(h)(2) (**Item 6**), Respondent must:
  - a. Review data from the 2008 and 2009 ILI tool run and identify anomalies

which are IM conditions. This review must include analyzing, integrating, and evaluating the data from the ILI tool runs to identify anomalies so as to make a determination of discovery for anomalous conditions on the pipeline.

- b. Complete Item 2a above by personnel who are qualified in these tasks by knowledge, training, and experience. The qualifications of these personnel must be fully documented.
  - c. Complete the requirements listed in Items 2a and 2b above within 45 days of receipt of this Final Order and provide written documentation confirming their completion to the Director, Office of Pipeline Safety, PHMSA Southern Region, within 60 days of receipt of this Final Order.
3. With respect to the violation of § 195.452(h)(1) (**Item 7**), Respondent must:
- a. Take prompt action as required by its IMP procedures and by § 195.452(h) to address all anomalous conditions discovered on its pipeline.
  - b. Remediate those anomalous conditions that could reduce the pipeline's integrity, to include those determined based on Respondent's integration and evaluation of the data from the 2008 and 2009 ILI tool runs.
  - c. Compare the results of actual in-field evaluations of anomalies on the pipeline to the ILI tool data and then re-evaluate the ILI tool data if the in-field results do not correspond with the ILI tool data. If the ILI tool data is re-evaluated, Respondent must perform the actions required by Items 2, 3a, and 3b above as needed on the data provided by the re-evaluation.
  - d. Complete Item 3c above by personnel who are qualified in these tasks by knowledge, training, and experience. The qualifications of these personnel must be fully documented.
  - e. Comply with the time requirements of § 195.452(h) in addressing and remediating anomalous conditions identified on the pipeline.
  - f. Provide the Director, Office of Pipeline Safety, PHMSA Southern Region monthly reports on the status in completing the requirements of Items 3a, 3b, and 3c above.
    - 1) The reports are due on the last day of the month with the first report required on the last day of the second month following receipt of the final order.
    - 2) The reports must include at least the following information: a brief description of the TAPC's status in addressing and remediating all anomalous conditions, identification of all anomalous conditions – locations, IM condition, discovery date, status, and comments, as needed; and the results of the respondent's comparison of actual in-field


evaluations of anomalies on the pipeline to the ILI data.

- 3) The Director, Southern Region may allow these reports to be discontinued once all identified anomalous conditions have been addressed, remediated, and reported by the respondent to the Director.
4. With respect to the violation of § 195.452(l)(1) (**Item 8**), Respondent must prepare and maintain adequate documentation as required by § 195.452(k) and by its IMP within 120 days of receipt of this Final Order.
5. It is requested (not mandated) that the Respondent document safety improvement costs associated with fulfilling this Order and submit the total to the Director, Southern Region. These costs should be reported in two categories: total cost associated with preparation of plans, procedures, and analyses; and total cost associated with replacements, and other changes to pipeline infrastructure.

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 and demonstrating good cause for an extension.

Failure to comply with this Order may result in the 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.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

**APR 04 2013**

\_\_\_\_\_  
Date Issued