TARGA

Targa NGL Pipeline Company LLC
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April 30, 2019

Via Certified Mail/RRR & Electronic Mail (Mary.Mcdaniel@dot.gov)

Mary McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
8701 S. Gessner, Suite 630
Houston, Texas 77074

Re: Withdrawal of Hearing Request and Submission of Written Response
C.P.F. No. 4-2018-5023 & C.P.F. No. 4-2018-5024M

Dear Ms. McDaniel:

On November 13 and 14, 2018, respectively, the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) issued a Notice of Amendment (NOA) and Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (NOPV) (collectively, Notices) to Targa NGL Pipeline Co. (Targa) in the above-captioned proceedings. After receiving an extension of time, Targa responded to the Notices on January 30, 2019, by requesting an in-person hearing.[1] Targa also asked PHMSA to participate in an informal meeting to discuss the Notices in an effort to resolve the matter prior to the hearing. On April 3, 2019, Targa and PHMSA met at the PHMSA Southwest Region Office in Houston, Texas, to discuss the Notices. As a result of the positive discussions that occurred at that meeting, Targa is hereby withdrawing its request for a hearing and submitting this written response in both proceedings.[2]

NOPV/Compliance Order CPF 4-2018-5023

Item #1:

195.446 (c)(4) Control Room Management

(c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months;

[1] By letter dated December 6, 2018, Targa asked PHMSA to extend the 30-day period for responding to the Notices until February 1, 2019. PHMSA subsequently granted that request.
[2] Targa advised PHMSA counsel of its intention to submit this filing, and PHMSA had no objections.

Targa failed to test their backup SCADA system or provide documentation to ensure compliance with §195.446 (c)(4). Tests on their backup SCADA had not been performed since the regulatory requirement became effective August 1, 2012. During the inspection, PHMSA inspectors requested copies of any documentation indicating that backup SCADA tests had been performed. Targa did not have, and did not provide, any documentation that would indicate that any backup SCADA system tests were performed for 2013, 2014, and 2015.

Targa Response:

PHMSA alleges that Targa violated § 195.446(c)(4) by failing to test a backup SCADA system during the 2013, 2014, and 2015 calendar years. A "SCADA system" is defined in 49 C.F.R. Part 195 as "a computer-based system or systems used by a controller in a control room that collects and displays information about a pipeline facility and may have the ability to send commands back to the pipeline facility."[3] While the phrase "backup SCADA system" is not defined in Part 195, the ordinary meaning of the word "backup" is something "that serves as a substitute or support[,]" *e.g.*, "a backup plan[.]"[4]

PHMSA has also issued Frequently Asked Questions (FAQs) for the Control Room Management (CRM) regulations that provide additional guidance on what qualifies as a backup SCADA systems. The FAQs state:

> Backup SCADA systems are independent or redundant systems that provide similar functionality to the primary SCADA system. Backup systems can be as simple as a redundant server and as complex as an entire backup control room with duplicate SCADA and communication systems. These systems are often located in a geographically diverse location not susceptible to a single natural disaster such as a hurricane or earthquake that might impact the primary system. Backup SCADA systems are unique to each pipeline system, and may not necessarily duplicate all of the performance and functionality of the primary system. Regardless of the nature, extent or location of any back-up SCADA system, all of its specified functional capabilities need to be verified annually.

PHMSA believes that the replacement server for the Hackberry Control Center qualifies as a backup SCADA system under § 195.446(c)(4). As support for that finding, PHMSA points to information obtained by the inspector during conversations with three Targa employees, as well as a reference to the server in Targa's Lake Charles Hurricane Preparedness Plan.[5] PHMSA also states that its investigation revealed that Targa previously operated the replacement server from a remote location during an emergency preparedness exercise. Citing that evidence, PHMSA alleges that the replacement server for the Hackberry Control Center is a backup SCADA system for purposes of the annual testing requirement in § 195.446(c)(4).

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[3] 49 C.F.R. § 195.2; *see also* 49 C.F.R. § 192.3.

[4] https://www.merriam-webster.com/dictionary/backup

[5] Pipeline Safety Violation Report, C.P.F. No. 4-2018-5023, p. 4 (Jan. 26, 2017) (Violation Report).

The Replacement Server for the Hackberry Control Center is Not a Backup SCADA System.

Targa respectfully disagrees with PHMSA's assertion. As a threshold matter, it is important to recognize that the servers at the Hackberry Control Center do not, in and of themselves, meet the Part 195 definition of a SCADA system. The server is only one part of the "computer-based system" that Targa uses to perform CRM-related functions, and Targa has tested all aspects of its primary SCADA system, including the server, on an annual basis. It is also important to recognize that the replacement server does not serve a substitute for the primary SCADA system under any ordinary understanding of the term "backup". The replacement server simply provides Targa with the ability to continue operating the primary SCADA system if the primary server becomes unavailable. That is why Targa's CRM procedures state that the Company does not have a backup SCADA system.

Nor is the replacement server part of an "independent or redundant syste[m] that provide[s] similar functionality to the primary SCADA system" as described in the CRM FAQs.[6] The replacement server does not operate independently from the primary SCADA system—it only operates as part of and in conjunction with the primary system. In other words, the replacement server is no different than any other spare part or component that Targa keeps in stock for potential future use. Targa is not aware of any other circumstance where PHMSA has applied the Part 195 inspection and testing requirements to stockpiled parts or equipment, and there is no reason to believe that a different rule should apply to the replacement server for a primary SCADA system.[8] For these reasons, Targa respectfully requests that PHMSA withdraw the allegation that failing to test the replacement server for the Hackberry Control Center during the 2013, 2014, and 2015 calendar years resulted in a violation of § 195.446(c).

Because Targa Had a Good Faith Basis for Not Treating the Replacement Server as a Backup SCADA System, the NOPV Should Be Converted into a Warning Item or NOA.

Even if PHMSA's position could be sustained under an alternative reading of the regulation, the evidence of record clearly shows that Targa had a good faith basis for not treating the replacement server as a backup SCADA system. The text, structure, and history of § 195.446(c) suggests that a server would need to be part of a substitute, fully-functional SCADA system to require annual testing, and the CRM FAQs do not specifically address the status of replacement servers or other spare parts or equipment for a primary SCADA system. PHMSA's commentary implies that a server would need to be in hot standby mode, *i.e.*, running simultaneously with the primary server and configured for immediate activation if the primary server failed, to satisfy the redundancy

[6] 49 C.F.R. § 195.2; *see also Pipeline Safety: Control Room Management/Human Factors*, 73 Fed. Reg. 53,076, 53,087 (Sept. 12, 2008) (describing a backup SCADA system as a "backup communication system").

[8] Part 195 does not generally require operators to periodically test equipment prior to installation. The obligation to test equipment typically arises at the time of initial installation and on some periodic basis thereafter. See e.g., 49 C.F.R. §§ 195.420 (requiring inspection of valves necessary for the safe operation of a pipeline at specified intervals), 195.428 (requiring inspection of relief devices necessary for the safe operation of a pipeline at specified intervals). Nothing in the text, structure, or history of the CRM regulations suggests that PHMSA intended to take a different approach in requiring annual testing requirement of backup SCADA systems. In fact, the annual testing requirement would apply to every extra mouse, keyboard, or computer monitor that a pipeline operator keeps on a shelf or stored in a warehouse for a SCADA system under the contrary interpretation.

standard laid out in the CMR FAQ. Given the significant fair notice issues that would arise if a civil penalty is imposed in this situation,[9] Targa respectfully requests that PHMSA convert Item 1 of the Notice into a warning item or NOA directing the company to submit amended CRM procedures to clarify the circumstances for conducting annual testing of backup SCADA systems.

Even if the Replacement Server is a Backup SCADA System, the Proposed Civil Penalty Should Be Reduced or Eliminated.

Assuming that PHMSA could impose retroactive sanctions under an alternative reading of the regulatory requirement, the proposed civil penalty does not appear to reflect the factors identified in the Pipeline Safety Laws and Regulations. The civil penalty worksheet indicates that PHMSA applied sixteen and one-half points for the gravity of the alleged violation, stating that "[p]ipeline safety or integrity was compromised in an HCA or an HCA 'could affect' segment." Targa does not agree with that assessment. Operators are not required to install backup SCADA systems, and "[p]ipeline safety or integrity [would only be] minimally affected" by a failure to conduct annual testing of a system that is entirely voluntary. Nor does such a violation specifically impact a high consequence area (HCA) or an HCA could affect segment. The CRM regulations are not directly linked to HCA segments, and there is no evidence in the record to suggest that Targa's failure to treat the replacement server as a backup SCADA system compromised the integrity of any HCA segments. For these reasons, Targa respectfully requests that no more than three points be assessed in considering the gravity of the alleged violation.

Perhaps most importantly, the civil penalty worksheet does not provide Targa with a good faith credit for reasonably interpreting the regulation as not applying to a replacement server for SCADA system. As explained in more detail in the previous paragraphs, Targa's interpretation is consistent with the text, structure, and history of § 195.446(c), and the CRM FAQs did not provide Targa with fair notice of PHMSA's contrary position prior to the inspection. As such, Targa respectfully requests that a 10-point credit be provided for good faith, and that, in the event PHMSA does not covert Item 1 to a warning item or NOA, the total base points for the violation be reduced from 26.5 to 4.5 to better reflect the evidence of record and civil penalty factors.

Item #2:

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:

(1) Information critical to determining the potential for, and preventing, damage due to excavation, including current and planned damage prevention activities, and development or planned development along the pipeline segment;

[9] *See ExxonMobil Pipeline Co. v. U.S. Dep't of Transp.*, 867 F.3d 564 (5th Cir. 2017).

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

(3) Data gathered in conjunction with other inspections, tests, surveillance and patrols required by this Part, including, corrosion control monitoring and cathodic protection surveys; and

(4) Information about how a failure would affect the high consequence area, such as location of the water intake.

Targa failed to provide records that show that an information analysis that analyzes all available information about the integrity of the entire pipeline and the consequences of a failure was thoroughly performed in order to ensure compliance with §195.452(g).

During the June 2016 inspection of Integrity Management at Targa's office in Sulphur, Louisiana, PHMSA requested that Targa provide any information or risk analysis of the Targa pipeline system that had been performed. On July 11, 2016, via an email attachment, Targa provided a list of variables and codes used in their risk analysis. The list of variables and codes provided were not dated. When asked, Targa's regulatory compliance manager responded with 2008.

Based on the information provided, PHMSA identified that Targa failed to analyze all available information about the integrity of the entire pipeline and the consequences of a failure for the period since 2008 for the following reasons:

- *Targa failed to integrate all the relevant threats into their risk model and risk ranking. As a result, Targa did not use the most accurate available data to represent pipeline characteristics in the analysis of different segments, including the results of integrity assessments;*

- *Targa failed to provide a risk comparisons study showing how threats had been eliminated and/or reduced from higher to lower risk after P&M measures; and*

- *Targa failed to demonstrate the progression of the risk models over the last three years to ensure that the accuracy of input information was properly integrated into the risk models.*

Targa's Response:

PHMSA alleges that Targa violated § 195.452(g) by failing to analyze all available information about the integrity of the entire pipeline and consequences of a failure since 2008. In support of that allegation, PHMSA argues that Targa failed to integrate all the relevant threats into its risk model and risk ranking, provide a risk comparisons study showing how the use of preventative

and mitigative (P&M) measures had reduced or eliminated threats, and demonstrate the progression of its risk models over the last three years.[10]

The Evidence Does Not Show that Targa Failed to Comply with the Information Analysis Requirement.

Targa respectfully contests the allegation of probable violation. Section 195.452(g) specifies the minimum requirements that operators must follow in conducting information analyses under PHMSA's integrity management (IM) regulations. The regulation identifies four broad categories of information and data that an operator must consider in meeting that obligation, including damage prevention information, data gathered from integrity assessments and other activities, and information about how a failure could affect an HCA. None of the allegations in the Notice relate to Targa's failure to analyze any available information or data within these four broad categories. Rather, the allegations all relate to the sufficiency of Targa's process for conducting periodic evaluations and assessments of pipeline integrity. The obligation to conduct such evaluations and assessments arises under a different IM regulation, § 195.452(j), and evidence of an operator's failure to meet that obligation does not substantiate a violation of the information analysis requirement.[11]

Moreover, none of the other evidence introduced by PHMSA shows that Targa failed to comply with § 195.452(g). The 2011 events cited in the violation report are outside the five-year statute of limitations period that applies in this enforcement action and cannot be used as evidence to substantiate the alleged violation.[12] The only event cited in the violation report that occurred within the five-year statute of limitations period, the 2015 pipeline modification, involved the removal of an above-ground crossing, not a repair, to reduce the likelihood of atmospheric corrosion or third-party damage.

More importantly, Targa provided PHMSA with evidence indicating that it analyzed a variety of integrity-related information in producing reports submitted to Targa's Risk Management and Insurance Department.[13] Targa also analyzed integrity-related information in completing a risk analysis in accordance with 195.452(e) to establish an integrity assessment schedule, address

[10] Violation Report at pp. 11-12.

[11] To the extent that the allegation relates to concerns about Targa's recordkeeping practices for documenting its information analysis, the NOPV should have referenced § 195.452(l).

[12] *In the Matter of Alon USA*, LLP, C.P.F. No. 5-2004-5021, Decision on Reconsideration (Oct. 22, 2009) (affirming that PHMSA must commence an enforcement action by issuing a notice of probable violation within five years to comply with the statute of limitations in 28 U.S.C. § 2462). Although occurring prior to November 2013 cannot be used to substantiate the merits of the violation alleged in the Notice, Targa notes that it integrated the information relating to the repairs that were completed after the 2011 third-party damage incident and evaluated the integrity of the pipeline segment when replacing over 820 feet of the pipeline. Targa had also identified third-party damage as a risk before that incident and implemented more frequent aerial patrols as a preventative and mitigative measure. Likewise, Targa analyzed the 2011 hydrostatic test failures and determined the cause to be Low Frequency ERW seam failures that had been previously identified as a risk to the pipeline. Targa was informed by data that the pipeline has had no operational failures or repairs related to identified or unidentified risk factors to the pipeline. The 2011 pipeline modifications cited in the NOPV involved the removal of an above-ground crossing, not a repair, to reduce the likelihood of atmospheric corrosion or third-party damage.

[13] In preparing these reports, Targa evaluated all available information and determined the risks associated with the pipeline segment and consequences of failure.

integrity issues, and identify additional P&M measures.[14] For example, Targa identified areas of higher risk for potential excavation damage and scheduled additional patrols as an additional P&M measure in those areas. Targa also analyzed how failure of its pipelines transporting highly volatile liquids could affects HCAs. Accordingly, Targa respectfully requests that PHMSA withdraw the allegation of violation.

Even if the Evidence Showed that Targa Failed to Comply with the Information Analysis Requirement, the Proposed Civil Penalty Should be Reduced or Eliminated.

If PHMSA declines to withdraw the allegation of violation, Targa respectfully requests that the civil penalty proposed in the Notice be reduced or eliminated. The civil penalty worksheet indicates that PHMSA applied three points for the nature of the alleged violation, stating that the violation arose from activities, such as "inspections, tests, maintenance, meetings, notifications, reports, emergency response, not preparing procedures, or not following procedures." Targa notes that the evidence that PHMSA introduced to substantiate the alleged violation is either legally irrelevant, relates to events that occurred outside the five-year statute of limitations period, or contradicted by other evidence submitted by Targa. At best, the record shows that Targa failed to properly document the results of its information analyses. Accordingly, Targa respectfully requests that PHMSA reduce the point value for the nature of the alleged violation from three to one.

PHMSA assigned 15 points for the gravity of the alleged violation, stating that "[p]ipeline safety or integrity was compromised in an HCA or an HCA 'could affect' segment." Failing to conduct an adequate information analysis does not implicate a violation of the gravity described in the civil penalty worksheet. As explained above, the evidence that PHMSA introduced to substantiate the alleged violation is either legally irrelevant, relates to events that occurred outside the five-year statute of limitations period, or contradicted by other evidence submitted by Targa. At best, the record shows that Targa failed to properly document the results of its information analyses. Targa therefore respectfully requests that PMHSA reduce the point value for the nature of the alleged violation from 15 to one.

Finally, PHMSA's civil penalty worksheet does not provide Targa with a good faith credit for reasonably interpreting § 195.452(g). There is no indication in the text of the regulation that operators are required to conduct risk comparison studies or analyze progressions of risk models to conduct an information analysis. Targa's understanding that those actions were not necessary to comply with § 195.452(g) reflects a reasonable interpretation of the regulation. There is also substantial evidence in the record demonstrating that Targa considered the four categories of information and data as required in the regulation.

In summary, Targa's total base points for any alleged violation of § 195.452(g) should be reduced from 25 to 0. The nature and gravity of the alleged violation is far less than what PHMSA proposed in the civil penalty worksheet, and Targa deserves a good faith credit for attempting to comply

[14] The risk analysis led Targa to identify and implement the additional P&M measures, including increasing the frequency of aerial patrols, conducing close interval surveys, implementing CGA Best Practices, completing station U.T. surveys, removing overhead crossings, improving leak detection, and installing remote valve actuation.

with the regulation. Therefore, Targa respectfully request that the total base points used in calculating any civil penalty for the alleged violation be zero.

Item # 3:

195.452 Pipeline Integrity Management in High Consequence Areas

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(2) Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

Targa failed to conduct periodic evaluations and failed to set a frequency of when periodic evaluations are to be performed on a consistent basis to assure pipeline integrity. During the inspection, PHMSA inspectors requested copies of any periodic evaluations that had been performed. Targa did not have and did not provide copies of any periodic evaluations. Discussions with the Targa's Manager of Regulatory Compliance revealed that the Manager did not believe that several risk factors identified on their pipeline were significant enough to warrant that a periodic evaluation be performed. The following are actual instances of integrity issues that were discussed and occurred on Targa's pipeline system in the past and there is no documentation of an evaluation or a current evaluation of any since that time:

- *SRCR, third party damage in 2011 that resulted in the replacement of approximately 820 feet of pipe;*
- *Multiple ruptures in 2011 hydro-test;*
- *Discovery of hook cracks on longitudinal seam welds in 2011; and*
- *Several pipeline modifications/repairs were performed on the pipeline in 2011 and 2015.*

Targa's Response:

PHMSA alleges that Targa violated § 195.452(j) by failing to conduct periodic evaluations as frequently as necessary to assure pipeline integrity. In support of the alleged violation, PHMSA states that Targa did not provide copies of its periodic evaluations to the agency's inspection staff, and that Targa acknowledged that several risk factors identified for the pipeline were not

significant enough to warrant periodic evaluation.[15] PHMSA also cites to several events that occurred in 2011 as evidence of integrity issues that did not receive consideration in a periodic evaluation, as well as one event that occurred in 2015.[16]

The Evidence Does Not Show that Targa Failed to Comply with the Periodic Evaluation Requirement.

Targa respectfully contests that alleged violation. Section 195.452(j)(2) requires operators to perform periodic pipeline integrity evaluations. In determining the frequency of those evaluations, operators must consider the risk factors specific to its pipeline. Operators must also consider the results of integrity assessments (baseline and periodic), information analysis, and decisions about remediation and P&M measures. The evidence shows that Targa met these obligations and that any shortcomings that may exist relate solely to maintaining appropriate documentation.

Targa's Integrity Management Program (IMP) includes a process for performing periodic pipeline integrity evaluations. Consistent with that process, Targa bases the frequency of periodic evaluations on changes to risk factors identified on the pipeline. Targa completes a periodic evaluation and makes appropriate changes to the assessment method and schedule based on changes to the risk factors. Targa's IMP also identifies the direct and indirect evidence used to determine whether to conduct a periodic evaluation and the frequency of periodic evaluations. These risk factors are listed below:

- Direct Observations.
- Indirect Evidence.
- Pressure Tests.
- In-line Inspections.
- Results of the previous integrity assessments.
- Types of defects, size, and defect growth rate.
- Pipe size, material, manufacturing information, coating type and condition, and seam type.
- Leak history, repair history, and cathodic protection history.
- Product transported.
- Operating stress level.
- Existing or projected activities in the area.
- Local environmental factors.
- Geo-technical hazards.
- Pipe supports.
- Additional identified risk factors.

None of the other evidence introduced by PHMSA shows that Targa failed to comply with § 195.452(j) or the provisions in its IMP. The 2011 events cited in the violation report are outside the five-year statute of limitations period that applies in this enforcement action and cannot be

[15] Violation Report at pp. 19-20.
[16] *Id.*

used as evidence to substantiate the alleged violation.[17] The only event cited in the violation report that occurred within the five-year statute of limitations period, the 2015 pipeline modification, involved removing an above-ground crossing to reduce the likelihood of atmospheric corrosion or third-party damage. There is nothing about that project, which was a risk reduction measure consistent with the IMP, to suggest that Targa needed to conduct a periodic pipeline integrity evaluation afterwards.

The allegation in the NOPV appears to be based on the flawed premise that § 195.452(j)(2) requires an operator to perform a periodic integrity evaluation every time a test, inspection, or repair is performed on the pipeline system. That interpretation is overbroad and unduly burdensome as pipeline operators frequently perform these actions for a variety of reasons that do not raise integrity concerns. Nothing in the IM regulations suggest that Targa had an obligation to perform a periodic evaluation when the events cited in the NOPV occurred, including those that fall outside the five-year statute of limitations period. The regulations only required Targa to follow the procedures in its IMP in responding to these events, and the evidence shows that Targa fulfilled that obligation. Targa satisfied the requirements in § 195.452(j)(2) through conducting periodic evaluations in connection with reports submitted to its Risk Management and Insurance Department. Through preparation of these reports, Targa analyzed information affecting pipeline integrity, including results of integrity assessments, information analyses, remediation measures, and P&M measures. For these reasons, Targa respectfully requests that the PHMSA withdraw the allegation in Item 3 of the Notice.

Even if the Evidence Showed that Targa Failed to Comply with the Periodic Evaluation Requirement, the Proposed Civil Penalty Should be Reduced or Eliminated.

If PHMSA declines to withdraw the allegation of violation, Targa respectfully requests that the civil penalty proposed in the Notice be reduced or eliminated. The civil penalty worksheet indicates that PHMSA applied three points for the nature of the alleged violation, stating that the violation arose from activities, such as "inspections, tests, maintenance, meetings, notifications, reports, emergency response, not preparing procedures, or not following procedures." At best, the nature of the probable violation missing or incomplete records documenting the results of Targa's periodic evaluations and determination that one was not required under § 195.452(j)(2). Accordingly, PHMSA should reduce the point value for the nature of the alleged violation from three to one.

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[17] *In the Matter of Alon USA*, LLP, C.P.F. 5-2004-5021, Decision on Reconsideration (Oct. 22, 2009) (affirming that PHMSA must commence an enforcement action by issuing a notice of probable violation within five years to comply with the statute of limitations in 28 U.S.C. § 2462). Even though any events that occurred prior to November 2013 cannot be used to substantiate the merits of the violation alleged in the Notice, Targa notes that it integrated the information relating to the repairs that were completed after the 2011 third-party damage incident and evaluated the integrity of the pipeline segment when replacing over 820 feet of the pipeline. Targa had also identified third-party damage as a risk before that incident and implemented more frequent aerial patrols as a preventative and mitigative measure. Likewise, Targa analyzed the 2011 hydrostatic test failures and determined the cause to be Low Frequency ERW seam failures that had been previously identified as a risk to the pipeline. Targa was informed by data that the pipeline has had no operational failures or repairs related to identified or unidentified risk factors to the pipeline. The 2011 pipeline modifications cited in the NOPV involved the removal of an above-ground crossing to reduce the likelihood of atmospheric corrosion or third-party damage.

PHMSA assigned 15 points for the gravity of the alleged violation, stating that "[p]ipeline safety or integrity was compromised in an HCA or an HCA 'could affect' segment." Failing to perform periodic evaluations in response to the events listed in the NOPV does not implicate a violation of the gravity described in the civil penalty worksheet. At best, the gravity of the alleged violation is limited to records only by failing to produce records demonstrating the results of Targa's periodic evaluations and determinations of the appropriate frequencies. As such, PMHSA should reduce the point value for the nature of the alleged violation from 15 to one.

Finally, PHMSA's civil penalty worksheet does not provide Targa with a good faith credit for adopting a reasonable interpretation of the regulation. Targa had no reason to believe that the events cited in the NOPV warranted a periodic evaluation to assure the integrity of the pipeline given the risk factors identified in the IMP. Targa's actions were consistent with the text of the IM regulations, which only require that operators perform periodic evaluations at a frequency to assure pipeline integrity. Therefore, Targa should receive the maximum good faith credit available.

In summary, Targa's total base points for the alleged violation should be reduced from 25 to zero. The gravity of the alleged violation is far less than what PHMSA proposed in the civil penalty worksheet, and Targa deserves a good faith credit for attempting to comply with the regulation. Therefore, the total base points used in calculating any civil penalty for the alleged violation should be zero.

Item # 4:

195.452 Pipeline Integrity Management in High Consequence Areas

(k) What methods to measure program effectiveness must be used? An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

Targa failed to measure the effectiveness of their Integrity Management (IM) program in order to protect high consequence areas in accordance with paragraph (k). Based on the information provided, PHMSA identified that Targa failed to measure the effectiveness of its program for the following reasons:

- *Targa metrics in the IM program failed to consider Measures that reflect the effectiveness of existing preventive and mitigative efforts;*
- *Targa failed to identify deficiencies that were indicative of programmatic breakdowns in the IM program; and*
- *Targa failed to provide evidence of feedback to corrective action programs, preventive and mitigative measure decision, and the threat and risk analysis process.*

Targa's Response:

The Evidence Does Not Show That Targa Failed to Measure Program Effectiveness.

Targa respectfully contests the allegation of probable violation. PHMSA's IM regulations are performance-based standards that allow operators to determine how best to comply with the requirements given their unique pipeline systems.[18] Section 195.452(k) specifies the minimum information that operators must consider, but does not set prescriptive requirements on how operator's measure program effectiveness. Instead, § 195.452(k) allows operators to choose methods that will measure the effectiveness of their IMP. The evidence shows that Targa satisfied that obligation and that any shortcomings in the program relate solely to maintaining adequate documentation.

Targa's IMP provides the metrics used to evaluate the company's IMP at section 8. Targa updates its performance metrics on an annual basis. Targa also applies these performance metrics in completing a report submitted to Targa's Risk Management and Insurance Department. This report is used by Targa's management to assess the performance of the IMP and improve the program as necessary. Targa's performance metrics demonstrate that the company's IMP is effective because they allow for tracking of integrity issues over time. Accordingly, Targa respectfully requests that PHMSA withdraw the allegation of violation.

Even if the Evidence Showed that Targa Failed to Measure Program Effectiveness, the Proposed Civil Penalty Should be Reduced or Eliminated.

If PHMSA declines to withdraw the allegation, Targa respectfully requests that the proposed civil penalty be reduced or eliminated. The civil penalty worksheet indicates that PHMSA applied three points for the nature of the alleged violation, stating that the violation arose from activities, such as "inspections, tests, maintenance, meetings, notifications, reports, emergency response, not preparing procedures, or not following procedures." If anything, the nature of the probable violation missing or incomplete records of the results of Targa's efforts to measure the effectiveness of their IMP. Accordingly, PHMSA should reduce the point value for the nature of the alleged violation from three to one.

PHMSA also assigned 15 points for the gravity of the alleged violation, stating that "[p]ipeline safety or integrity was compromised in an HCA or an HCA 'could affect' segment." The evidence shows that Targa effectively measured their program effectiveness by tracking, reviewing, and preparing reports in accordance with their IMP performance metrics. Any violation that occurred relates solely to maintaining adequate documentation of those efforts. Accordingly, PMHSA should reduce the point value for the nature of the alleged violation from 15 to one.

In summary, Targa's total base points for the alleged violation should be reduced from 25 to nine. The gravity of the alleged violation is far less than what PHMSA proposed in the civil penalty worksheet, and Targa deserves a good faith credit for attempting to comply with the regulation.

[18] 49 C.F.R. § 195.452; *see also* 49 C.F.R. Part 192, Subpart O.

Therefore, the total base points used in calculating any civil penalty for the alleged violation should be no greater than nine.

Notice of Amendment CPF 4-2018-5024M

Item # 1:

195.446 (c)(4) Control Room Management

(c) Provide adequate information. Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(4) Test any backup SCADA systems at least once each calendar year, but at intervals not to exceed 15 months;

Targa's process and procedure documented in the Control Room Management Plan, Hackberry Storage Facility, backup SCADA system, page 12, is inadequate. The process and procedure lack specifics in reference as to how the transition from normal to emergency mode will take place, who will be responsible for implementing the emergency mode, how the testing of the backup SCADA system will be performed and, how pipeline operation will be returned to the primary SCADA control.

Targa must amend current process and procedures, these process and procedures should be kept or referenced in the Control Center Manual of operations as required by 195.446(c)(4).

Targa's Response:

Consistent with Targa's response to Item 1 in the NOPV, Targa has amended its procedures to clarify that backup SCADA systems are those systems that provide an alternative means of communication, which will include redundant services in hot standby mode. Targa has also revised its procedures to provide processes for how a transition from normal to emergency mode will take place, who will be responsible for implementing emergency mode, how the testing of the backup SCADA system will be performed, and how pipeline operation will be returned to primary SCADA control. Targa will follow these procedures if the company decides to add backup SCADA systems in the future.

Item # 2:

195.452 Pipeline Integrity Management in High Consequence Areas

(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.

(2) Appendix C of this part provides further guidance on risk factors.

Targa's procedure in Section 5.0 Risk Analysis, 5.2 Hazard /Threat Identification is inadequate as it does not allow for a technical justification for not considering a given risk factor, specifically the threat of SCC to its pipeline system.

PHMSA inspectors requested specific procedures that discussed technical justification for Targa not considering the threat of SCC to its pipeline system. Targa provided PHMSA inspectors a copy of the SCC criteria that is utilized to either consider or not consider SCC as a risk factor.

Targa must amend current process and procedures, in Section 5.2 of the Integrity Management Program for Liquid Transmission Pipelines by adding language that allows for a technical justification for not considering risk factors to ensure compliance with 195.452(e).

Targa's Response:

Targa has amended Section 5.2 Integrity Management Plan with the following to address the risk of stress corrosion cracking and requiring a technical justification for not considering stress corrosion cracking.

Stress Corrosion Cracking (SCC) - Steel pipeline segments with the following criteria have the potential to be affected by SCC and have leaks or failures due to SCC. Risk analysis shall include this factor as a risk of failure due to SCC when these criteria are met.

Description	Criteria
High pH SCC	
Age of Pipe	>10 years
Operating Stress	>60% of SMYS
Operating Temperature	>100°F
Distance from pump station	<20 miles
Coating Systems	All but FBE
Near-neutral pH SCC	
Age of Pipe	>10 years
Operating Stress	>60% of SMYS
Distance from pump station	<20 miles
Coating Systems	All but FBE

Item # 3:

195.452 Pipeline Integrity Management in High Consequence Areas

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(2) Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

Targa's procedure in Section 7.0 Continual Process of Evaluation and Assessment, 7.1 Periodic Evaluation, is inadequate because it does not set a specific frequency of when Periodic Evaluations will be performed.

On July 9, 2016, Targa revised its Integrity Management program which included a revision to Section 7.0 Continual Process of Evaluation and Assessment, 7.1 Periodic Evaluation by adding language that allows for Periodic Evaluations be performed annually.

Targa's Response:

Targa has revised the plan and states that the periodic evaluations will be performed on an annual basis.

Targa appreciates the opportunity to work with PHMSA concerning this matter. If you have any questions, please contact me at 713-584-1632.

Regards,

Gregg Johnson
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Targa Resources

cc: Bill Grantham, VP Operations
Jessica Keiser Sr. VP ESH, Targa Resources
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