



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

APR 18 2006

400 Seventh Street, S.W.
Washington, D.C. 20590

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515-6115

The Honorable Rick Boucher
Ranking Member
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515-6115

Dear Congressmen:

Thank you for your March 23 cosigned letter to the U.S. Department of Transportation regarding the Pipeline Safety enforcement program regarding information concerning progress by the agency in implementing enforcement policies and recommendations by the GAO. The GAO audited the enforcement program in 2003 and provided recommendations in 2004. In a subsequent audit in 2005, the GAO found PHMSA had responded satisfactorily to the six 2004 recommendations.

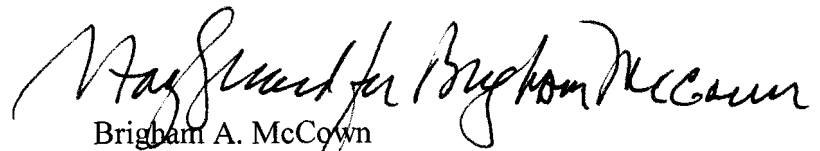
During the last two years, PHMSA has fully implemented its higher penalty authority and has institutionalized a "tough-but-fair" approach to enforcement. The agency is imposing and collecting larger penalties, while at the same time, guiding pipeline operators to meet higher safety standards. Compared to 2003, the first year when higher penalty authority was available, PHMSA doubled the civil penalties proposed in 2004 and tripled them in 2005. For calendar year 2005, the total proposed penalties amounted to over \$4,000,000.

As requested, PHMSA has updated the chart of proposed and assessed civil penalties previously submitted in 2004. The updated chart now includes civil penalties collected from January 1, 2000 through March 31, 2006. PHMSA believes the updated chart clarifies and captures correlated data on proposed, assessed, and collected civil penalties in a more comprehensive manner than any past correspondence.

I hope this information is helpful to you.

If I can provide further information or assistance, please do not hesitate to contact me directly at (202) 366-4831.

Sincerely,



Brigham A. McCown
Acting Administrator

Enclosures

cc: The Honorable Joe Barton, Chairman
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman
Subcommittee on Energy and Air Quality

The Honorable Don Young, Chairman
Committee on Transportation and Infrastructure

The Honorable James L. Oberstar, Ranking Member
Committee on Transportation and Infrastructure

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ENCLOSURE 1: RESPONSE TO QUESTIONS

In your letter you state, "Given this document and your recent testimony we would appreciate an update of the aforementioned chart containing the following:"

QUESTION: 1. (a) A detailed breakdown of penalty actions taken by OPS from March 7, 2002, to the present date, including types of violations for which a penalty was proposed; the proposed penalty; the assessed penalty; the amount collected for each final penalty; the reason where applicable, for a reduction in the proposed penalty; the number of cases referred to the Department of Justice (DOJ) and the status of cases referred to DOJ.

ANSWER:

As stated in your March 23, 2006 letter, the agency submitted a document on July 30, 2004 that "provided details on enforcement actions taken by the Office of Pipeline Safety between January 2000 and March 2002 and listed proposed, assessed, and final order dates for all enforcement actions during that time period." An analysis of the data in the document led to the conclusion "while PHMSA had proposed an impressive \$9,094,700 in penalties, it had assessed only \$2,620,050 or approximately 28 percent." The data in 2004 for cases was not as complete as today to make a comprehensive comparison. A comparison today yields a much higher percentage. Also, we should not have included the Carlsbad, NM and the Bellingham, WA cases because we ultimately relied on a broader enforcement strategy outside the agency.

As requested, PHMSA prepared the following table, "Table 1: Penalty Actions for Cases with Final Orders, March 7, 2002 to March 31, 2006." This table specifically addresses the enforcement cases for which the agency assessed civil penalties in this time period. A penalty is assessed in a Final Order after opportunity for a hearing. PHMSA did not include the Carlsbad, NM and the Bellingham, WA cases in any of the charts that follow because PHMSA did not complete the prosecution. Where appropriate, PHMSA acts as part of a broader enforcement framework whose activities are brought together to achieve pipeline safety objectives. In the Bellingham case, PHMSA worked closely with other agencies to achieve a highly effective enforcement outcome. This incident underscores PHMSA's many enforcement tools and its ability to reach a good result in a variety of circumstances. The Carlsbad matter is currently pending and PHMSA is working toward a satisfactory resolution.

Based on the updated and more complete data of Table 1, the assessed-to-proposed civil penalty ratio is 77% for the 2000 to 2002 enforcement timeframe. As to the reasons for reduction of a penalty, PHMSA received from each operator, in all the listed cases, information or evidence, such as pipeline facility inspection or testing documentation, to warrant a change in the initial proposed civil penalty as the cases were administratively adjudicated. In the table, the last column shows cases for which an operator provided valid and sufficient evidence to warrant a penalty reduction, indicated by the letter A. Since each case stands upon a separate set of facts, the individual case determinations, and any instances where a reduction in penalties were given, are based upon individual case evaluations.

The violation types listed in Table 1 are general categories of pipeline activity requirements found in the Code of Federal Regulations applicable to pipeline safety. These violation types correlate to the dominant enforcement case citation. They are: Operations (O), Maintenance (M), Corrosion (Corrosion Ctrl), Pipeline Design (Design), Design of Components (Component), General Requirements (Segment Compliance), Construction (C), Operator Qualification (OQ), Drug & Alcohol (D&A), Training (T) and Welding of Steel Pipe (Welding).

Table 1: Penalty Actions for Cases with Final Orders, March 7, 2002 to March 31, 2006

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected (\$000)	Reason for Reduction of Proposed Penalty A – Applies NA – Does Not Apply
1.	NG Operations	5,000	3,000	3,000	A
2.	LNG Operations	10,000	10,000	10,000	N/A
3.	NG Operations	75,000	62,500	62,500	A
4.	Haz. Liq. O & M	80,000	45,000	45,000	A
5.	Haz. Liq. O & M	18,500	17,500		A
6.	Haz. Liq. OQ	10,000	5,000	5,000	A
7.	Haz. Liq. O & M	5,000	5,000	5,000	N/A
8.	NG Maintenance	5,000	5,000	5,000	N/A
9.	NG Maintenance	6,000	6,000	6,000	N/A
10.	NG Maintenance	10,000	10,000	10,000	N/A
11.	Haz. Liq. O & M	50,000	50,000	50,000	N/A
12.	Haz. Liq. O & M	35,000	35,000	35,000	N/A
13.	Haz. Liq. O & M	35,000	35,000	35,000	N/A
14.	Haz. Liq. O & M	55,000	55,000	55,000	N/A
15.	Haz. Liq. O & M	5,000	5,000		N/A
16.	Haz. Liq. O & M	5,500	5,500	5,500	N/A
17.	NG Maintenance	45,250	38,250	38,250	A
18.	Haz. Liq. O & M	18,500	18,000	18,000	A
19.	Haz. Liq. IMP	15,500	15,500		N/A
20.	NG Operations	20,000	15,000	15,000	A
21.	NG Corrosion Ctrl	17,000	12,000	12,000	A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected for Each Final Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A – Applies N/A – Does Not Apply
22.	Haz. Liq. O & M	43,800	0		A
23.	Haz. Liq. O & M	22,700	13,400	13,400	A
24.	Haz. Liq. IMP	43,000	43,000		N/A
25.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
26.	Haz. Liq. O & M	5,000	5,000	5,000	N/A
27.	Haz. Liq. O & M	177,000	67,000	67,000	A
28.	NG Maintenance	34,000	34,000	34,000	N/A
29.	Haz. Liq. Accident Report	10,000	10,000		N/A
30.	Haz. Liq. O & M	3,000	3,000	3,000	N/A
31.	NG Maintenance	14,000	14,000		N/A
32.	NG Component Design	5,000	5,000		N/A
33.	NG Segment Compliance	15,000	15,000		N/A
34.	NG Maintenance	9,500	0		A
35.	NG Maintenance	24,500	9,500		A
36.	Haz. Liq. Construction	70,000	60,000	60,000	A
37.	Haz. Liq. O & M	182,500	101,000	101,000	A
38.	Haz. Liq. O & M	45,000	45,000	45,000	N/A
39.	Haz. Liq. O & M	8,500	8,500	8,500	N/A
40.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
41.	Haz. Liq. Accident Report	5,000	5,000	5,000	N/A
42.	NG Corrosion Ctrl	554,000	400,000	400,000	A
43.	Haz. Liq. O & M	25,000	20,000	20,000	A
44.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
45.	Haz. Liq. O & M	35,000	35,000	35,000	N/A
46.	Haz. Liq. OQ	50,000	16,000	16,000	A
47.	Haz. Liq. Design Requirements	30,000	20,000	20,000	A
48.	NG Corrosion Ctrl	5,000	5,000	5,000	N/A
49.	Haz. Liq. O & M	23,250	23,250	23,250	N/A
50.	LNG Training	220,000	30,000		A
51.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
52.	NG Corrosion Ctrl	29,000	23,000	23,000	A
53.	NG Operations	20,000	20,000	20,000	N/A
54.	NG Operations	25,000	25,000	25,000	N/A
55.	Haz. Liq. IMP	5,000	0		A
56.	NG Operations	4,000	4,000		A
57.	Haz. Liq. O & M	5,000	5,000	5,000	N/A
58.	NG Maintenance	22,000	22,000	22,000	N/A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected for Each Final Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A – Applies N/A – Does Not Apply
59.	Haz. Liq. O & M	5,000	5,000		A
60.	NG Corrosion Ctrl	70,000	70,000	70,000	N/A
61.	NG Corrosion Ctrl	83,750	83,750	83,750	N/A
62.	NG Maintenance	11,500	5,000		A
63.	NG Corrosion Ctrl	2,500	2,500		A
64.	NG Corrosion Ctrl	17,000	17,000	17,000	N/A
65.	Haz. Liq. Construction	30,000	25,000	25,000	A
66.	NG Operations	22,750	22,750	22,750	N/A
67.	Haz. Liq. IMP	110,000	90,000		A
68.	NG Operations	10,000	10,000	10,000	N/A
69.	Haz. Liq. IMP	25,000	25,000	25,000	N/A
70.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
71.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
72.	Haz. Liq. O & M	50,000	50,000	50,000	N/A
73.	Haz. Liq. IMP	5,000	5,000		A
74.	Haz. Liq. O & M	25,000	25,000		A
75.	NG Corrosion Ctrl	105,000	85,000	85,000	A
76.	NG Operations	126,000	86,000		A
77.	NG Operations	5,000	5,000	5,000	N/A
78.	NG Pipe Welding	10,000	10,000	10,000	N/A
79.	Haz. Liq. O & M	6,000	2,400	2,400	A
80.	NG Maintenance	10,000	0		A
81.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
82.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
83.	LNG Maintenance	5,200	4,900	4,900	A
84.	Haz. Liq. OQ	5,000	5,000	5,000	N/A
85.	NG Segment Compliance	20,000	12,500	12,500	A
86.	NG OQ	5,000	5,000	5,000	N/A
87.	Haz. Liq. O & M	2,500	2,500	2,500	N/A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected for Each Final Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A - Applies N/A - Does Not Apply
88.	Haz. Liq. Materials	5,000	5,000		N/A
89.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
90.	Haz. Liq. O & M	12,000	12,000	12,000	N/A
91.	NG Component Design	20,000	15,000	15,000	A
92.	Haz. Liq. Corrosion Ctrl	3,000	0		A
93.	Haz. Liq. O & M	7,000	7,000	7,000	N/A
94.	Haz. Liq. Design	90,000	40,000		A
95.	Haz. Liq. Construction	26,000	20,000	20,000	A
96.	Haz. Liq. O & M	20,000	20,000	20,000	N/A
97.	Haz. Liq. O & M	25,000	25,000	25,000	N/A
98.	Haz. Liq. O & M	20,000	20,000	20,000	N/A
99.	NG Maintenance.	92,000	92,000	92,000	N/A
100.	NG Maintenance	5,000	5,000	5,000	N/A
101.	NG Corrosion Ctrl	10,000	10,000	10,000	N/A
102.	Haz. Liq. O & M	12,750	12,750	12,750	N/A
103.	Haz. Liq. IMP	5,000	5,000	5,000	N/A
104.	Haz. Liq. O & M	15,000	15,000	15,000	N/A
105.	Haz. Liq. O & M	5,000	5,000	5,000	N/A
106.	Haz. Liq. IMP	105,000	105,000	105,000	N/A
107.	Haz. Liq. O & M	40,000	32,000	32,000	A
108.	Haz. Liq. O & M	50,000	25,000	25,000	A
109.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
110.	Haz. Liq. Construction	60,000	60,000	60,000	N/A
111.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
112.	Haz. Liq. O & M	10,000	7,500	7,500	A
113.	Haz. Mat. OQ	5,000	5,000		A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Collected Assessed Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A – Applies N/A – Does Not Apply
114.	NG Reporting	25,000	25,000	25,000	N/A
115.	Haz. Liq. O & M	35,000	35,000		N/A
116.	Haz. Liq. Design	134,000	92,000		A
117.	NG Maintenance	30,000	30,000		N/A
118.	Haz. Liq. IMP	10,000	5,000	5,000	A
119.	NG O & M	31,000	30,500	30,500	A
120.	Haz. Liq. IMP	55,000	55,000	55,000	N/A
121.	Haz. Liq. Maintenance	4,500	4,500	4,500	N/A
122.	Haz. Liq. Maintenance	30,000	27,500		A
123.	NG Operations	15,000	15,000	15,000	N/A
124.	LNG Maintenance	5,000	5,000	5,000	N/A
125.	NG Operations	205,000	205,000	205,000	N/A
126.	LNG Maintenance	11,000	6,000	6,000	A
127.	NG Segment Compliance	5,000	5,000	5,000	N/A
128.	LNG Maintenance	5,000	3,000	3,000	A
129.	NG Maintenance	15,000	15,000	15,000	N/A
130.	NG Operations	41,000	36,600	36,600	A
131.	NG Corrosion Ctrl	9,000	9,000	9,000	N/A
132.	NG Pipe Welding	135,000	135,000		N/A
133.	NG Reporting	5,000	5,000	5,000	N/A
134.	Haz. Liq. OQ	10,000	10,000	10,000	N/A
135.	Haz. Liq. IMP	5,000	5,000	5,000	N/A
136.	Haz. Liq. IMP	50,000	35,000	35,000	A
137.	LNG Training	30,000	28,000	28,000	N/A
138.	Haz. Liq. O & M	37,500	37,500	37,500	N/A
139.	Haz. Liq. O & M	4,000	4,000	4,000	N/A
140.	Haz. Liq. Corrosion Ctrl	50,000	50,000		N/A
141.	NG Maintenance	8,000	8,000	8,000	N/A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected for Each Final Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A – Applies N/A – Does Not Apply
142.	NG O & M	335,000	275,000	275,000	A
143.	NG Corrosion Ctrl	5,000	5,000		N/A
144.	NG Operations	25,000	0		A
145.	NG OQ	80,000	30,000		A
146.	NG Corrosion Ctrl	7,500	7,500	7,500	N/A
147.	Haz. Liq. O & M	11,500	11,500	11,500	N/A
148.	Haz. Liq. O & M	12,000	12,000	12,000	N/A
149.	NG Reporting	5,000	0		A
150.	Haz. Liq. O & M	674,000	330,250	330,250	A
151.	Haz. Liq. O & M	6,200	6,200	6,200	N/A
152.	Haz. Liq. O & M	11,000	11,000		N/A
153.	Haz. Liq. IMP	10,000	5,000	5,000	A
154.	NG O & M	15,000	15,000	15,000	N/A
155.	Haz. Liq. O & M	70,000	70,000	70,000	N/A
156.	Haz. Liq. O & M	15,000	15,000		A
157.	Haz. Liq. O & M	10,000	10,000	10,000	N/A
158.	Haz. Liq. O & M	5,000	5,000	5,000	N/A
159.	Haz. Liq. O & M	3,600	3,600		N/A
160.	Haz. Liq. Drug and Alcohol	45,000	45,000		N/A
161.	NG Reporting	5,000	5,000	5,000	N/A
162.	NG Maintenance	9,500	4,500	4,500	A
163.	NG Maintenance	15,000	10,000		A
164.	Haz. Liq. O & M	22,000	0		A
165.	LNG Maintenance	45,000	30,000	30,000	A
166.	NG Maintenance	10,000	10,000	10,000	N/A
167.	NG Maintenance	36,500	36,500	36,500	N/A
168.	Haz. Liq. O & M	18,000	8,000		A

Case ID Number	Violation Type	Proposed Civil Penalty (\$000)	Assessed Civil Penalty (\$000)	Amount Collected for Each Final Civil Penalty (\$000)	Reason for Reduction of Proposed Penalty A – Applies N/A – Does Not Apply
169.	NG Pipe Welding	15,000	15,000	15,000	N/A
170.	NG Operations	46,500	46,500	46,500	N/A
171.	NG Maintenance	9,000	9,000	9,000	N/A
172.	NG Maintenance	5,400	0		A
173.	NG Corrosion Ctrl	10,000	10,000		A
174.	NG Component Design	30,000	30,000	30,000	N/A
175.	Haz. Liq. Corrosion Ctrl	4,000	4,000	4,000	N/A
176.	Haz. Liq. Operations	6,000	6,000	6,000	N/A
177.	NG Maintenance	20,000	20,000	20,000	N/A
178.	NG Corrosion Ctrl	33,000	27,000	27,000	A
179.	NG Corrosion Ctrl	8,000	8,000	8,000	N/A
180.	Haz. Liq. Corrosion Ctrl	10,500	0		A
TOTALS		6,433,150	4,928,600		N/A

QUESTION: 1. (b) The collection status of all final penalties for actions taken between January 1, 2000, and the present.

ANSWER:

The agency developed Table 2 as a summary tabulation of calendar year proposed civil penalties directly related to the final collected fines, regardless of open cases with ongoing compliance orders. It covers civil penalties initiated between calendar year (CY) 2000 to March 31, 2006. However, open civil penalty cases or those in collection are excluded. In addition, the Bellingham, Washington accident and the Carlsbad, New Mexico incidents are not included in this tabulation because we are not listing any cases which the agency ultimately decided to handle with the Department of Justice. This adjustment provides a more realistic and consistent representation of PHMSA's civil penalty assessment and collection results.

The development of Table 2 requires a manual process to correlate a collected civil penalty to the year the agency proposed the civil penalty case. Civil penalty cases involve extensive processing. This process requires the agency to review an Inspector's evidence, provide the operator hearing time, and review the operator's evidence and analyze all data presented. Cases can take a year or more. PHMSA is in the process of automating systems for monitoring and measuring enforcement results, such as, tracking the number of inspection findings per 100 inspections where the findings indicate high risk to safety.

Finally, review of Table 2 indicates the following conclusions regarding PHMSA's collection of penalties for closed cases (closed means cases closed financially with payments collected by March 31, 2006):

- To date for CY2000 to CY2002, PHMSA collected an average of 75% of the fines proposed for closed cases. PHMSA closed an average of 91% of the cases during this period.
- To date for CY2003 to CY2005, PHMSA collected an average of 94% of the fines for closed cases. PHMSA closed an average of 56% of the cases during this period.

Table 2: Collection Status of all Final Penalties for Final Order Actions Taken Between January 1, 2000 to March 31, 2006¹

Calendar Year (CY)	Number of Cases Opened in CY	Penalties Proposed in CY (\$000)	Number of Cases Closed ²	Penalties Proposed for Cases Closed ² (\$000)	Penalties Collected for Cases Closed ² (\$000)	Percent of Closed Cases ²	Percent Collected of Amount Proposed
2000	20	1,319	19	1,189	816	95	69
2001	27	1,690	25	1,660	1,240	93	75
2002	47	1,764	40	1,280	1,047	85	82
2003	32	1,010	24	678	657	75	97
2004	63	2,220	38	732	700	60	90
2005	76	4,191	25	719	684	33	95

Note 1: This table excludes the Bellingham, Washington and Carlsbad, New Mexico cases.

Note 2: Closed means cases closed financially with payments collected by March 31, 2006

QUESTION: 2. On June 21, 2001, OPS announced a proposed civil penalty in the amount of \$2.52 million as a result of the pipeline incident in Carlsbad, New Mexico, that claimed the lives of 12 people. Please detail the status of this case, the final penalty assessed by OPS, and the collection status thereof.

ANSWER:

It would be inappropriate for PHMSA to discuss the status because the Department of Justice is in non-public settlement discussions with respect to this matter.

QUESTION: 3. (a) The GAO recommended that “OPS define its enforcement goals and strategy and establish a systematic approach for designing new performance measures.” In her testimony before the Congress on March 16, 2006, Mrs. Katherine Siggerud with GAO stated that “PHMSA has developed a reasonable enforcement strategy framework that is responsive to GAO’s earlier recommendations.” Please provide a copy of OPS’s enforcement strategy and detail specifically how it differs from the enforcement regime in place at the time of the 2004 GAO report. Has this strategy been published or is it available on the OPS and/or PHMSA Web site. If not, why not?

ANSWER:

Prior to CY2004, the agency’s pipeline safety enforcement program focused on the best ways to achieve operator compliance and to reduce incidents caused by non-compliance. The GAO in 2004 recommended PHMSA develop a process for pipeline safety enforcement, including goals, key strategies, and performance measures for program effectiveness.

In response, PHMSA developed a multi-year roadmap for strengthening enforcement, called the Enforcement Program Performance Plan. PHMSA established 14 strategies, and 37 specific actions in support of these strategies. PHMSA also defined 9 longer-term and 29 short-term performance indicators for measuring program effectiveness. For example, one key regulatory strategy is to deal severely with significant non-compliances and repeat offenses of any kind. To accomplish this, an example of a specific action is to develop guidance for the inspectors to use in ranking non-compliance by risk. These guidelines improve both external communication and internal analysis of pipeline safety performance. The risk ranking is an input in the enforcement action and civil penalty assessment process. The long term performance indicator for this strategy is risk-ranking operators within a peer group. We also identify high risk operators to plan more effective use of our inspection resources. The agency uses short term performance measurements to evaluate operator performance improvements or reduction in non-compliance severity as a result of a previous enforcement action.

Overall, the agency is improving its comprehensive process for tracking performance and advancing its measurement of enforcement effectiveness. As an enforcement mission goal, PHMSA seeks to reduce the number of incidents caused by non-compliance. As a part of this overall process, the agency is focusing resources on higher risks and poorer performing operators, with emphasis on critical issues to ensure effectiveness.

In its present form, the Enforcement Performance Plan is an internal agency document that guides enforcement strategy, a copy of which is attached. PHMSA is preparing a document for public consumption, intended for both informing pipeline operators and other stakeholders.

QUESTION: 3. (b). Page 4 of the GAO report includes a discussion of OPS penalties assessed and reduced and notes that “OPS’s database does not provide summary information on why penalties are reduced.” Has OPS updated its database capabilities to include information on why proposed penalties are reduced? If so, please explain how this system works. If not, why not?

ANSWER:

Yes, PHMSA completed the development of a new information system for enforcement tracking as a part of the Safety Monitoring and Reporting Tool (SMART) and is currently testing the system. When testing is completed, the SMART enforcement tracking system will capture all relevant civil penalty information contained in Final Orders. One of the benefits of this system is better integration of databases to analyze program performance and ad hoc reporting. PHMSA expects to use the SMART enforcement tracking as the system of record by CY2007.

QUESTION: 3. (c). Page 13 of the GAO report states that “In 2002, OPS created an Enforcement Office to put more focus on enforcement and help ensure consistency in enforcement decisions. However, the agency has not yet filled key positions in this office.” Please detail the number of full-time enforcement employees that are currently employed by OPS and the difference in staffing from July 2004.

ANSWER:

PHMSA currently employs three engineers and six attorneys at headquarters who are solely dedicated to the pipeline safety enforcement program. These nine Federal employees apply enforcement policy and strive to achieve consistency in the work of 90 Federal and 400 State inspection and enforcement personnel.

Three enforcement positions have been added since 2004— a compliance officer and two pipeline attorneys. Since 2002, we have added two enforcement officers and five attorneys dedicated to pipeline safety enforcement, which account for a 350% increase in resources.

QUESTION: 3. (d). Page 33 of the GAO report noted several deficiencies in the method of penalty collection by OPS and the Federal Aviation Administration (FAA), which collects penalties on behalf of OPS. GAO made three specific recommendations that OPS should implement (p.35) in order to improve the management of penalty collection which were (1) OPS should inform FAA of all proposed and assessed civil penalties so that FAA can carry out its collection functions; (2) FAA should share its reports on collections with OPS so that OPS will know the status of civil penalty enforcement actions; and (3) OPS should post all enforcement actions on its Web site, consistent with its policy.

Please comment on each specific recommendation and detail what actions OPS has taken to respond to each.

ANSWER:

PHMSA established a standard operating procedure (SOP) for processing the collection of civil penalties and communicating to FAA. The SOP identifies specific individual responsibilities and establishes accountability for making the process work. A copy of the SOP is attached.

PHMSA implemented a process for posting enforcement actions on the PHMSA website within 10 business days of completion of Final Orders. Enforcement actions are listed under the Regional Office designation. PHMSA also maintains older enforcement documents on this site for public access.

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