



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

APR 26 2006

Mr. Jim Lamanna
President
BP Pipeline (North America) Inc.
28100 Torch Pkwy
Warrenville, IL 60555-3938

Re: CPF No. 4-2005-5045

Dear Mr. Lamanna:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$10,000, and specifies actions to be taken to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590**

In the Matter of)
)
)

BP Pipelines (North America), Inc.,)

CPF No. 4-2005-5045

Respondent)
_____)

FINAL ORDER

On July 11–15 and 25–29, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Pipeline Safety conducted an on-site pipeline safety inspection of Respondent's integrity management program (IMP) in Warrenville, Illinois. As a result of the inspection, the Director, Southwest Region, issued to Respondent, by letter dated October 25, 2005, 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 Respondent had violated 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$10,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Respondent responded to the Notice by letter dated November 30, 2005. Respondent contested the allegation of violation and requested a hearing. On March 20, 2006, Respondent submitted documentation for the hearing, which was held via telephone conference the same day.

FINDING OF VIOLATION

The Notice alleged Respondent violated 49 C.F.R. § 195.452(f)(5), (j)(1), and (j)(3) by failing to establish a documented process for establishing integrity assessment intervals that meets the requirements at § 195.452(j)(3). During the July 2005 inspection, PHMSA inspectors discovered Respondent's procedures provided for assessment interval determinations by an inline inspection (ILI) specialist based on the integrity assessment results and repair history without any written process guidance and consideration of the factors at § 195.452(j)(3). The Notice alleged this issue was previously identified in a Notice of Probable Violation (CPF No. 5-2003-5031) as Item 10, for which a warning was issued. The Final Order in that case was issued on May 16, 2005.

Section 195.452(f)(5) requires Respondent to have a written integrity management program that includes a continual process of assessment and evaluation to maintain pipeline integrity. Section 195.452(j)(1) requires Respondent to continue to assess the line pipe at specified intervals and

periodically evaluate the integrity of each pipeline segment that could affect a high consequence area (HCA). Section 195.452(j)(3) requires Respondent to establish intervals not to exceed five (5) years for continually assessing the line pipe's integrity. The interval must be based on the risk the line pipe poses to the HCA (to determine priority), the factors specified in paragraph (e) of § 195.452, the analysis of the results from the last integrity assessment, and the information analysis required by paragraph (g) of § 195.452.

In its Response and at the hearing, Respondent contested the allegation that a violation occurred. Respondent acknowledged receiving the warning for the same issue in CPF No. 5-2003-5031, Item 10, and asserted that it had taken measures in response to that warning to satisfactorily address the issue. In response to the Notice issued in that case, Respondent amended its procedures to include a requirement that an ILI Specialist provide a recommendation addressing the schedule for the next reassessment based on the comparison of corrosion anomaly data between all ILI data available for the particular segment being evaluated. Respondent provided PHMSA a copy of those amendments prior to issuance of the Final Order. Respondent believed that PHMSA had accepted those changes as meeting the requirement of the regulation based on language in the Final Order, issued on May 16, 2005, which read:

The Notice did not propose a civil penalty or corrective action for Items 10 and 12 but warned Respondent that it should take appropriate corrective action to correct the items. Respondent presented information in its response showing that it has addressed the cited items. Respondent is again warned that if OPS finds a violation in a subsequent inspection, enforcement action will be taken.¹

The Final Order, however, did not make a finding that Respondent's actions had achieved compliance with respect to Item 10. The Final Order merely documented the fact that Respondent had taken action in an effort to achieve compliance. Accordingly, the Final Order repeated PHMSA's warning that enforcement action would be taken if a subsequent inspection found that compliance had not been achieved. PHMSA performed that subsequent inspection in July 2005.

During the July 2005 inspection, relevant portions of Respondent's procedures (BPPL-SP-200, section 4, paragraph 5) instructed an ILI Specialist to provide a recommendation for reassessment when, based on a comparison of corrosion anomaly data and ILI data, the anticipated five-year reassessment interval needed to be modified. The procedures did not include a process for determining integrity assessment intervals in accordance with the specified factors in § 195.452(j)(3), including the risk the line pipe poses to the HCA, the factors specified in paragraph (e) of § 195.452, the analysis of the results from the last integrity assessment, and the information analysis required by paragraph (g) of § 195.452.

Accordingly, I find Respondent violated 49 C.F.R. § 195.452(f)(5), (j)(1), and (j)(3) as alleged in the Notice. This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

¹ Final Order, CPF No. 5-2003-5031, p.6 (May 16, 2005).

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a 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. The Notice proposed a total civil penalty of \$10,000 for the violation.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

Respondent failed to establish intervals for continually assessing pipeline integrity based on the factors and analyses specified in § 195.452(j)(3). Failure to establish an adequate reassessment schedule may delay timely remediation of integrity issues on segments that could affect an HCA, which could result in a pipeline failure affecting an HCA. At the hearing, Respondent explained that it believed PHMSA had approved its amendments to the same procedures in response to CPF No. 5-2003-5031. While the Final Order issued in that case documented that Respondent had taken action in an effort to achieve compliance, no finding was made as to whether Respondent's actions had achieved compliance.

During the hearing, Respondent asserted PHMSA should have brought this case with a Notice of Amendment rather than a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (NOPV). Where a defect in Respondent's procedures constitutes a probable violation of a regulatory requirement, however, the Regional Director, in his or her discretion, may issue an NOPV charging Respondent with that violation and propose a civil penalty and compliance order.²

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$10,000. Respondent has the ability to pay this penalty without adversely affecting its ability to continue in business.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-300), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this 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-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

² 49 C.F.R. §§ 190.207, 190.217 and 190.221.

Failure to pay the \$10,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

COMPLIANCE ORDER

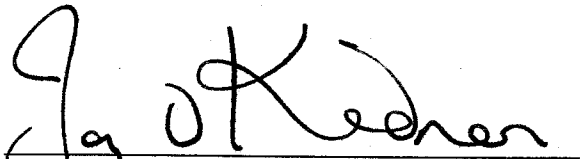
The Notice proposed a compliance order with respect to the violation. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. Pursuant 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. Respondent must—

1. Prepare a written process for establishing integrity assessment intervals, which meets the requirements of 49 C.F.R. § 195.452(j)(3). The process must ensure that assessment intervals are based on specific factors and guidelines, including, but not limited to, leak history, preventive and mitigative actions, and remediation of conditions per repair criteria at 49 C.F.R. § 195.452(h), as applicable. The process must also consider other “triggers” that may require reassessment sooner than the determined intervals, including, but not limited to, time-dependent events, such as internal and external corrosion, and non time-dependent events, such as third party damage, stress corrosion cracking, and operational changes, that may be identified following a release or during the performance of routine operations, maintenance, and inspection tasks. The process must account for threats to the integrity of pipelines identified in the risk analysis and must provide justification for excluding such threats from consideration, if applicable.
2. Prepare a timeline for applying the process developed in Item 1 for the pipeline systems included in Respondent’s Integrity Management Program.
3. Complete the above items within 30 days of receipt of this Final Order and submit documentation of completion to the Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner Dr., Suite 1110, Houston, Texas 77074-2948.

The Director, Southwest Region, may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in the assessment of civil penalties of not more than \$100,000 per day and in referral to the Attorney General for appropriate relief in a United States District Court.

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 received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety



APR 26 2006

Date Issued