



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

AUG 26 2008

Mr. Dan Knepper  
Vice President, Energy Operations  
CHS Inc.  
PO Box 909  
Laurel, MT 59044

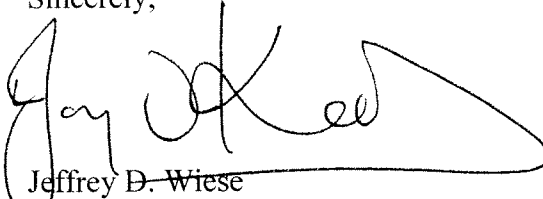
Re: CPF No. 5-2007-5015

Dear Mr. Knepper:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by CHS Inc., to comply with the PHMSA pipeline safety regulations. When the terms of the Compliance Order have been completed, as determined by the Director, Western Region, this enforcement action will be closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

*for*   
Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, P.E., Western Region Director, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

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

\_\_\_\_\_) )  
**In the Matter of** )

**CHS Inc.,** )

**CPF No. 5-2007-5015**

**Respondent.** )  
\_\_\_\_\_)

**FINAL ORDER**

On August 28 - 31, 2006, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of CHS Inc.'s (CHS or Respondent) Integrity Management Program (IMP) in Laurel, Montana. CHS operates approximately 1,086 miles of hazardous liquid pipelines in Montana and North Dakota, much of which runs through environmentally sensitive areas. As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated April 4, 2007, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated various provisions of 49 C.F.R. §195.452 and ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated May 1, 2007 (Response). Respondent did not contest the allegations of violations and indicated that it intended to complete the work identified in the proposed Compliance Order by November 1, 2007. Respondent further requested that in the event a Final Order should be issued prior to that date, an extension be granted for Respondent to complete the work. As of the date hereof, Respondent has not provided documentation showing completion of the work identified in the Compliance Order. In its Response, CHS did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

**Item 1:** Item 1 of the Notice alleged that Respondent violated various provisions of 49 C.F.R. § 195.452(i), which states, in relevant part:

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

(a) ...

(i) *What preventive and mitigative measures must an operator take to protect the high consequence area?*

(1) *General requirements.* An operator must take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. These measures include conducting a risk analysis of the pipeline segment to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, better monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on the pipeline segment, modifying the systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders and adopting other management controls....

(3) *Leak detection.* An operator must have a means to detect leaks on its pipeline system. An operator must evaluate the capability of its leak detection means and modify, as necessary, to protect the high consequence area. An operator's evaluation must, at least, consider the following factors—length and size of the pipeline, type of product carried, the pipeline's proximity to the high consequence area, the swiftness of leak detection, location of nearest response personnel, leak history, and risk assessment results.

(4) *Emergency Flow Restricting Devices (EFRD).* If an operator determines that an EFRD is needed on a pipeline segment to protect a high consequence area in the event of a hazardous liquid pipeline release, an operator must install the EFRD. In making this determination, an operator must, at least, consider the following factors—the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, topography or pipeline profile, the potential for ignition, proximity to power sources, location of nearest response personnel, specific terrain between the pipeline segment and the high consequence area, and benefits expected by reducing the spill size.

**Item 1(A):** Item 1(A) of the Notice alleged that, as of the date of the inspection, Respondent had violated § 195.452(i)(1) by failing to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. Specifically, the Notice alleged that Respondent failed to conduct a risk analysis of its pipeline segments to identify additional actions to enhance public safety or environmental protection. CHS did not contest this allegation. Accordingly, based upon a review of the record, I find that Respondent violated 49 C.F.R. § 194.452(i)(1)) by failing to have completed a risk analysis of its pipeline segments.

**Item 1(B):** Item 1(B) of the Notice alleged that Respondent had violated 49 C.F.R. § 195.452(i)(3), as stated above, by failing to complete, as of the date of the inspection, an evaluation of the leak detection capability of its pipeline system.

In its Response, Respondent did not contest this allegation but indicated that it intended to comply with the actions required under the proposed Compliance Order by November 1, 2007. Accordingly, based upon a review of the record, I find that Respondent violated 49 C.F.R. §195.452(i)(3) by failing to have completed, as of the date of the inspection, an evaluation of the leak detection capabilities of its pipeline system.

**Item 1(C):** Item 1(C) of the Notice alleged that Respondent had violated 49 C.F.R. § 195.452 (i)(4), as stated above, by failing to complete, as of the date of the inspection, an evaluation to determine if there were a need for additional EFRDs on any segment of its pipeline system in order to protect a high consequence area in the event of a release. In its Response, CHS did not contest the allegation but indicated that it intended to comply with the actions required under the proposed Compliance Order by November 1, 2007. Accordingly, based upon a review of the record, I find that Respondent violated 49 C.F.R. §195.452(i)(4) by failing to have completed, as of the date of the inspection, an evaluation to determine if there were a need for additional EFRDs on any segment of its pipeline system.

**Item 2(A):** Item 2(A) of the Notice alleged that Respondent violated 49 C.F.R. § 195.452(j)(2), which states:

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

(a) ...

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

(1) *General.* After completing the baseline integrity assessment, an operator must 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.

(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....

The Notice alleged that Respondent had violated § 195.452(j)(2) by failing to conduct, as of the date of the inspection, an annual evaluation of its pipeline system, as required by Article 7.1 of CHS' integrity management program. In its Response, Respondent did not contest the allegation but indicated that it intended to comply with the actions required under the proposed Compliance Order by November 1, 2007. Accordingly, based upon a review of the record, I find that Respondent violated 49 C.F.R. §195.452(j)(2) by failing to have conducted, as of the date of the inspection, a periodic evaluation of the integrity of its pipeline system, as required by Article 7.1 of Respondent's IMP.

**Item 3(A):** Item 3(A) of the Notice alleged that Respondent violated 49 C.F.R. § 195.452(k), which states:

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

(a) ...

(f) *What are the elements of an integrity management program?*

An integrity management program begins with the initial framework.

An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) ...

(7) Methods to measure the program's effectiveness (see paragraph (k) of this section)...

(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.

The Notice alleged that Respondent had violated 49 C.F.R. § 195.452(k) by failing to conduct ongoing evaluations of the effectiveness of its IMP in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas. Specifically, it alleged that CHS had failed to conduct an annual evaluation of its IMP, as required under Article 9.1 of such plan. In its Response, Respondent did not contest the allegation but indicated that it intended to comply with the actions required under the proposed Compliance Order by November 1, 2007. Accordingly, based upon a review of the record, I find that Respondent violated 49 C.F.R. §195.452(k) by failing to have conducted, as of the date of the inspection, periodic evaluations of the effectiveness of its IMP in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 1(A), 1(B), 1(C), 2(A), and 3(A) in the Notice for violations of 49 C.F.R. §§ 195.452(i)(1, 3, and 4), 195.452(j)(2), and 195.452(k). 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 Notice Item 1(A) pertaining to preventive and mitigative measures, Respondent must perform a preventive and mitigative analysis, using a risk analysis of its pipeline segments to identify additional actions to enhance public safety or environmental protection. Such actions may include, but are not limited to, implementing damage prevention best practices, improving monitoring of cathodic protection where corrosion is a concern, establishing shorter inspection intervals, installing EFRDs on pipeline segments, modifying systems that monitor pressure and detect leaks, providing additional training to personnel on response procedures, conducting drills with local emergency responders, and adopting other management controls.
2. With respect to Notice Item 1(B) pertaining to evaluation of leak detection capabilities, Respondent must evaluate the capability of its leak detection methods and modify the methods, as necessary, to protect the high consequence areas. This evaluation must, at least, consider the following factors: the length and size

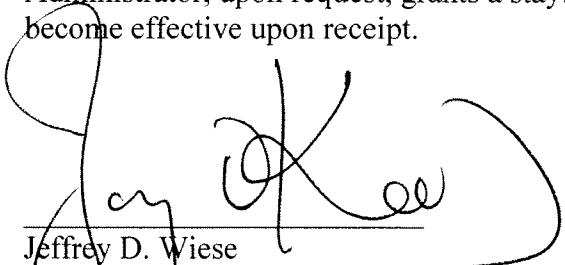
of the pipeline, the type of product transported, the proximity of the pipeline to high consequence areas, the swiftness of leak detection, the location of nearest response personnel, the pipeline's leak history, and the pipeline risk assessment results.

3. With respect to Notice Item 1(C) pertaining to evaluating EFRDs, Respondent must evaluate its EFRDs. This evaluation must, at least, consider the following factors: the swiftness of leak detection and pipeline shutdown capabilities, the type of commodity carried, the rate of potential leakage, the volume that can be released, the topography or pipeline profile, the potential for ignition, the pipeline proximity to power sources, the location of nearest response personnel, the specific terrain between the pipeline segment and the high consequence areas, and the benefits expected by reducing the spill size. If Respondent determines that any pipeline segment requires an EFRD to protect a high consequence area in the event of a hazardous liquid pipeline release, Respondent must install the EFRD.
4. With respect to Notice Item 2(A) pertaining to periodic evaluations of integrity information, Respondent must conduct a periodic evaluation to ensure pipeline integrity. This evaluation must consider the results of the baseline and periodic integrity assessments, an information analysis as required under §195.452(g), decisions about remediation, and preventive and mitigative actions as required under §195.452(h) and (i). This analysis must also include the basis for determining the frequency of future evaluations. Respondent must determine this frequency according to the evaluation of risk factors specific to its pipeline, including the factors specified in paragraph §195.452(e).
5. With respect to Notice Item 3(A) pertaining to periodic evaluations of the effectiveness of an IMP, Respondent must evaluate its IMP's effectiveness in assessing and evaluating the integrity of each pipeline segment and in protecting high consequence areas.
6. Respondent shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit them to the Director, Western Region, Pipeline and Hazardous Materials Safety Administration, 12300 W. Dakota Avenue, Suite 110, Lakewood, CO 80228. Costs shall be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.
7. Within 30 days of receipt of the Final Order, Respondent must complete the items listed above and submit appropriate documentation showing their completion to the Director, Western Region, Pipeline and Hazardous Materials Safety Administration, 12300 W. Dakota Avenue, Suite 110, Lakewood, CO 80228.

The Director may grant an extension of time to comply with any of the items set forth above upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in 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 received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any required corrective action, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall become effective upon receipt.

*for*  
  
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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

AUG 26 2008  
Date Issued